

CLERK'S OFFICE

## TRANSCRIPT OF RECORD

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1938

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No. 391

THE UNITED STATES OF AMERICA, PETITIONER

vs.

ELIZABETH C. JACOBS, EXECUTRIX OF THE LAST WILL  
AND TESTAMENT OF W. FRANCIS JACOBS, DECEASED

---

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT  
OF APPEALS FOR THE SEVENTH CIRCUIT

---

PETITION FOR CERTIORARI FILED SEPTEMBER 28, 1938  
CERTIORARI GRANTED NOVEMBER 7, 1938



IN THE  
**United States Circuit Court of Appeals**  
**For the Seventh Circuit**

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**No. 6418**

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THE UNITED STATES OF AMERICA,  
*Appellant,*

*vs.*

ELIZABETH C. JACOBS, EXECUTRIX OF THE LAST WILL AND  
TESTAMENT OF W. FRANCIS JACOBS, DECEASED,  
*Appellee.*

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*Counsel for Appellant:*

MR. JAMES W. MORRIS,  
MR. SEWALL KEY,  
MR. M. L. IGOE,

*Counsel for Appellee:*

MR. LEWIS C. MURTAUGH,

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Appeal from the District Court of the United States for the Northern District  
of Illinois, Eastern Division.





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1      Pleas in the District Court of the United States for Placita.  
the Northern District of Illinois, Eastern Division, begun  
and held at the United States Court Room, in the City of  
Chicago, in said District and Division, before the Honorable  
Charles E. Woodward, (District Judge of the United States  
for the Northern District of Illinois on Seventeenth day of  
June, in the year of our Lord one thousand nine hundred and  
Thirty-Seven, being one of the days of the regular June Term  
of said Court, begun Monday, the Seventh day of June, and  
of our Independence the 161st year.

Present:

Honorable Charles E. Woodward, District Judge.  
William H. McDonnell, U. S. Marshal.  
Henry W. Freeman, Clerk.

2      IN THE DISTRICT COURT OF THE UNITED STATES,  
                  Northern District of Illinois,  
                  Eastern Division.

Elizabeth C. Jacobs, Executrix under  
 the Last Will and Testament of W.  
 Francis Jacobs, deceased,      }  
    Plaintiff,      } No. 39407.  
    *vs.*  
 The United States of America.

Be It Remembered, that the above-entitled action was commenced by the filing of the following Petition in the above-entitled cause in the office of the Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division, on this the 27th day of March, A. D. 1931.

Mar. 27, 11.      3      And on, to wit, the 27th day of March, A. D. 1931, came the Plaintiff by her attorneys and filed in the Clerk's office of said Court a certain Petition in words and figures following, to wit:

4      IN THE DISTRICT COURT OF THE UNITED STATES.  
                  \* \* (Caption—39407) \* \*

PETITION.

Elizabeth C. Jacobs, as Executrix under the Last Will and Testament of W. Francis Jacobs, deceased, for cause of action against the United States of America, alleges:

1. That she is a resident of the City of Chicago, and a citizen of the State of Illinois, and that her residence is in the First Internal Revenue District of the State of Illinois.

2. That W. Francis Jacobs died testate on June 17, 1924, a citizen of the United States and a resident of the City of Chicago, in the State of Illinois, and in the First Internal Revenue District of the State of Illinois, and by the terms of the Last Will and Testament of said W. Francis Jacobs, the petitioner, Elizabeth C. Jacobs, was appointed the Executrix

thereof, and said Will was admitted to probate in the  
5 Probate Court of Cook County, Illinois, said Elizabeth  
C. Jacobs was appointed Executrix thereof and letters  
testamentary were issued to her by said Probate Court of  
Cook County, Illinois, and that said letters testamentary were  
re-issued to said Elizabeth C. Jacobs on May 3, 1928, and are  
now in full force and effect.

3. That on or about August 7, 1925, said Elizabeth C.  
Jacobs, as Executrix as aforesaid, paid the sum of Four  
Hundred Eight Dollars and Thirty-five Cents (\$408.35) to  
the Collector of Internal Revenue at Chicago, Illinois, on  
account of the Federal estate tax believed to be due by rea-  
son of the death of said decedent, and thereafter, on or about  
April 20, 1927, upon a determination of deficiency of tax  
by the Commissioner of Internal Revenue, said Executrix  
paid the further sum of One Thousand Four Hundred Ninety-  
five Dollars and Thirty-five Cents (\$1,495.35) to the Collec-  
tor of Internal Revenue at Chicago, Illinois, on account of  
the Federal estate tax believed to be due by reason of the  
death of said decedent.

4. That said tax was erroneously computed and over-  
paid, and that the amount of such overpayment should be  
refunded to the petitioner.

5. The petitioner further shows that the Commissioner  
of Internal Revenue, in his final determination of the estate  
tax liability arising by reason of the death of said decedent,

6 found that the gross estate of said decedent, the deduc-  
tions therefrom, and the total tax due were as follows:

## Petition.

"Estate of W. Francis Jacobs  
MT-ET-6009-AW-1st Illinois

Date of death  
—June 17, 1924

## Summary.

	Returned (706)	Tentatively Determined on Review
<b>Gross Estate:</b>		
Real Estate .....	\$ 55,000.00	\$ 75,000.00
Stocks and bonds.....	26,753.39	39,910.03
Mortgages, notes, cash and insurance .....	25,979.94	27,730.92
Jointly owned property.....	45,000.00	79,937.50
Other miscellaneous property.....	1,640.00	1,640.00
Transfers .....		
Powers of appointment.....		
Property identified as previously taxed .....		
Total gross estate.....	154,273.33	234,268.45
<b>Deductions:</b>		
Funeral expenses .....	771.10	771.10
Administration expenses:		
Executors' commissions .....	3,000.00	3,000.00
Attorneys' fees .....	2,500.00	2,700.00
Miscellaneous .....	450.00	150.00
Debts of decedent.....	93.00	1,452.57
Unpaid mortgages .....	17,131.16	16,060.47
Net losses during settlement.....		
Support of dependents.....	8,100.00	8,100.00
Property identified as previously taxed .....		
Charitable, public, and similar gifts and bequests.....		
Specific exemption (resident decedents only) .....	50,000.00	50,000.00
Total Deductions .....	82,045.26	82,234.14
Net estate for tax.....	72,226.07	142,034.31
Total tax .....	544.46	2,340.69
Tentative Deficiency Tax.....		1,796.23
Credits for estate, inheritance, legacy or succession tax.....	136.11	585.17
Credit for gift tax.....		

Treasury Department

Internal Revenue Bureau

Estate Tax Division

Form 7321-A Revised March 1925".

7 6. The petitioner further shows that in the gross estate of said decedent there was included by the Commissioner of Internal Revenue "Jointly owned property", the total value of which was the sum of Seventy-nine Thousand Nine Hundred Thirty-seven Dollars and Fifty Cents (\$79,937.50), and that said "Jointly owned property" consisted of two tracts of land, together with the buildings and improvements thereon, the first of which was property located at 2749-59 Monticello Avenue, Chicago, Illinois, the full value of which was determined to be in the sum of Sixty Thousand Nine Hundred Thirty-seven Dollars and Fifty Cents (\$60,937.50), the second of which was property located at 1732 Humboldt Boulevard, Chicago, Illinois, the full value of which was determined to be in the sum of Nineteen Thousand Dollars (\$19,000.00).

7. The petitioner further shows that the premises at 2749-59 Monticello Avenue, Chicago, Illinois, were acquired by warranty deed dated November 23, 1917, and delivered on or about that date, a true and correct copy of which was attached to an affidavit filed in support of the claim for refund which is hereinafter set forth in this petition; that in said deed, Bergitte M. Brandt and Albert E. Brandt, her husband, were the grantors, and the said W. Francis Jacobs and Elizabeth C. Jacobs, as joint tenants, with the right of survivorship, were the grantees, and that the legal effect of said deed was to vest the title to said premises in said W. Francis

Jacobs and Elizabeth C. Jacobs, as joint tenants, with  
8 the right of survivorship.

8. The petitioner further shows that the premises at 1732 Humboldt Boulevard, Chicago, Illinois, were acquired by warranty deed dated July 29, 1909, and delivered on or about that date, a true and correct copy of which was attached to an affidavit filed in support of the claim for refund which is hereinafter set forth in this petition; that in said deed, Lena De St. George was the grantor, and the said W. Francis Jacobs and Elizabeth C. Jacobs, as joint tenants, with the right of survivorship, were the grantees, and that the legal effect of said deed was to vest the title to said premises in said W. Francis Jacobs and Elizabeth C. Jacobs, as joint tenants, with the right of survivorship.

9. The petitioner further shows that on or about February 20, 1927, she filed a claim for refund of said Federal estate tax erroneously paid by her and illegally collected, and

said claim was made according to the provisions of the law in regard to claims for refund and according to the regulations of the Treasury Department established in pursuance thereof, and was, in words and figures, as follows:

"State of Illinois, }  
County of Cook. } ss.

Elizabeth C. Jacobs, individually and as Executrix of the estate of W. Francis Jacobs, 1732 Humboldt Boulevard, Chicago, Illinois.

9 This deponent, being duly sworn according to law, deposes and says that this statement is made on behalf of the taxpayer named, and that the facts given below with reference to said statement are true and complete:

Business in which engaged: None.

Character of assessment or tax: Federal estate tax.

Amount of assessment or stamps purchased: \$1,903.70.

Amount to be refunded (or such greater amount as is legally refundable): \$1,800.00.

Dates of payment (see Collector's receipts or indorsements of canceled checks): Aug. 7, 1925, April 20, 1927.

Deponent verily believes that this application should be allowed for the following reasons:

(1) The value of the premises at 2400 W. North Avenue, Chicago, Illinois, shown as Item No. 2 of Schedule A, Form 706, heretofore filed was not in excess of \$35,000 on June 17, 1924, the date of the death of said decedent, and the increase in the valuation thereof to \$46,000 made by the Commissioner of Internal Revenue was incorrect and improper.

(2) The inclusion by the Commissioner of Internal Revenue in the gross estate of said decedent of the property at 2749-59 Monticello Avenue, Chicago, Illinois, which was jointly owned by the decedent and the deponent, and the valuation thereof in the sum of \$60,937.50 were incorrect and improper. The deponent made a substantial contribution out of her own money toward the purchase price of said premises.

(3) The inclusion by the Commissioner of Internal Revenue in the gross estate of said decedent of the property at 1732 Humboldt Boulevard, Chicago, Illinois, which was jointly owned by the decedent and the deponent, and the valuation thereof in the sum of \$19,000 were incorrect and improper. The title to this property in joint tenancy was acquired by



the decedent and the deponent by deed dated July 29, 1909, and delivered on or about August 5, 1909, and recorded in the Recorder's Office of Cook County on August 6, 1909.

(4) From the gross estate of said decedent there should be deducted the further sum of \$850, being the amount of the claim of Harry D. Knight for services rendered to the decedent in his lifetime as an attorney, which claim has been allowed in the Probate Court and paid out of the estate of said decedent since the filing of said Form 706. This appears as Item No. 4 of Schedule I, Form 706."

10 10. That thereafter, on or about April 2, 1928, pursuant to the request of the Commissioner of Internal Revenue, the petitioner filed an affidavit in support of her claim for refund, which was, in words and figures, as follows:

"State of Illinois, }  
County of Cook. } ss.

The undersigned, Elizabeth C. Jacobs, being first duly sworn, deposes and says that the facts given below are true and complete:

1. That she makes this affidavit in support of the claim heretofore filed by her individually and as Executrix of the Estate of W. Francis Jacobs, MT-ET-CI-6009-CTK District of First Illinois Estate of W. Francis Jacobs, Date of death: June 17, 1924, pursuant to the suggestion of the Commissioner of Internal Revenue.

2. That the premises referred to in Paragraph 2 of said claim for refund filed by the undersigned and known as 2749-59 Monticello Avenue, Chicago, Illinois, were acquired by Warranty Deed dated November 23, 1917, from Bergitte M. Brandt and Albert E. Brandt, her husband, a true and photostatic copy of the original of said deed being attached hereto, marked "Exhibit 1".

3. That the premises referred to in Paragraph 3 of said claim for refund filed by the undersigned and known as 1732 Humboldt Boulevard, Chicago, Illinois, were acquired by Warranty Deed dated July 29, 1909, from Lena De St. George, a true and photostatic copy of the original of said deed being attached hereto, marked "Exhibit 2".

4. That the inclusion of said jointly owned property in the gross estate of W. Francis Jacobs, subject to Federal Estate Tax, is improper and not warranted by law."

11. That said claim for refund and affidavit in support

thereof, was considered by the Commissioner of Internal Revenue and the contentions of the petitioner with reference to the taxability of the "jointly owned property" were rejected by said Commissioner of Internal Revenue and disallowed on or about April 16, 1928, said letter of rejection and disallowance being as follows:

"MT-ET-C1-6009-CTK,  
District of 1st Illinois,  
Estate of W. Francis Jacobs.

In the claim the contention is made that certain items of real estate were overvalued. No evidence has been submitted in support of this contention although an opportunity to submit evidence was given. The values fixed by the Bureau are based upon the evidence obtained from real estate experts.

The second contention is that the decedent's wife contributed to the purchase price of Item 1 of Jointly Owned Property. Her contribution to the extent of one sixteenth was conceded. The total value of the property was found to be \$65,000.00, and in view of the wife's contribution only \$60,937.50 was included in the gross estate.

The third contention presented is that nothing should be included in the statutory gross estate on account of property held under a joint tenancy created on July 29, 1909. In subdivision (h) of Section 302 of the Revenue Act of 1924 it is provided that, 'Subdivisions (b), (c), (d), (e), (f), and (g) of this section shall apply to the transfers, trusts, estates, interests, rights, powers, and relinquishment of powers, as severally enumerated and described therein, whether made, created, arising, existing, exercised, or relinquished before or after the enactment of this Act'.

The final contention is that additional deduction should be made under the caption 'Debts of decedent' in the amount of \$850.00. The net estate previously valued at \$142,034.31 is now valued at \$141,184.31, the tax on the transfer of which is \$2,323.67.

The certificate of overassessment reflects the adjustment shown above and also the correction of a duplicate assessment of deficiency."

12 12. That the Commissioner of Internal Revenue to the contrary notwithstanding, the full value of the real estate owned by said decedent in joint tenancy with his wife, the said Elizabeth C. Jacobs, at the date of his death, was not subject to Federal estate tax.

13. That Mabel O. Reinecke, formerly Collector of Internal

Revenue for the United States of America, for the First District in the State of Illinois, to whom payment of said tax was made, is no longer in office and is no longer acting as such Collector of Internal Revenue.

14. That no part of said tax so overpaid by said petitioner has been refunded or repaid by said Mabel G. Reinecke, as Collector of Internal Revenue as aforesaid, or by any other person whomsoever; that the petitioner is the sole owner of the causes of action herein set forth, and that no assignment or transfer of the same, or any part thereof, has been made, and that the petitioner is justly entitled to the amount claimed herein from the United States, after allowing all just credits and set-offs.

Wherefore, the petitioner prays that there be refunded to her the total amount of Federal estate tax paid by her, in the sum of One Thousand Nine Hundred Three Dollars and Seventy Cents (\$1,903.70), or such portion thereof as may now be legally refundable to the petitioner, together with interest thereon as required by law.

The petitioner therefore prays judgment in her favor and against the United States of America for said sum of One Thousand Nine Hundred Three Dollars and Seventy Cents (\$1,903.70) and interest, as aforesaid.

Elizabeth C. Jacobs,  
*Executrix under the Last Will and  
Testament of W. Francis Jacobs,  
Deceased.*

State of Illinois, }  
County of Cook. } ss.

Elizabeth C. Jacobs, being first duly sworn, on oath deposes and says:

That she has read the foregoing petition signed by her as Executrix under the Last Will and Testament of W. Francis Jacobs, and that the same is true.

Elizabeth C. Jacobs.

Subscribed and sworn to before me this 17 day of March,  
A. D., 1931.

Charles M. Bates,  
*Clerk of the District Court of the  
United States, for the Northern  
District of Illinois, Eastern Division.*

14 And on, to wit, the 23rd day of May, A. D. 1931, came the Defendant by its attorneys and filed in the Clerk's office of said Court a certain Plea and Notice of Special Master in words and figures following, to wit:

15 IN THE DISTRICT COURT OF THE UNITED STATES.  
• • (Caption—39407) • •

### PLEA AND NOTICE OF SPECIAL MASTER.

And the defendant, the United States of America, by George E. Q. Johnson, United States Attorney for the Northern District of Illinois, its attorney, comes and defends the wrong and injury when, etc., and says that it did not promise in manner and form as the plaintiff has above thereof complained against it; and of this it puts itself upon the country, etc.

George E. Q. Johnson,  
*United States Attorney for the Northern District of Illinois.*

### NOTICE OF SPECIAL MASTER.

The plaintiff will take notice that on the trial of this cause the defendant will give in evidence, and insist, that of the amount of Federal estate tax sought to be recovered by the plaintiff, \$408.35 was paid on August 7, 1925; that the claim for refund of said amount was rejected on April 16, 1928; that, therefore, recovery of the said sum of \$408.35 is barred by the Statute of Limitations because this suit was not brought within two years after the rejection of the claim for abatement, nor within five years after payment of the said sum.

George E. Q. Johnson,  
*United States Attorney for the Northern District of Illinois.*

16 And afterwards, to wit, on the 15th day of January, A. D. 1934, being one of the days of the regular December term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William H. Holly, District Judge, appears the following entry, to wit:

17      IN THE DISTRICT COURT OF THE UNITED STATES.  
          • • (Caption—39407) • •

ORDER.

This Matter, coming on to be heard on the motion of McCulloch, McCulloch and McLaren, Attorneys for Elizabeth C. Jacobs, as Executrix under the Last Will and Testament of W. Francis Jacobs, deceased, petitioner in the above entitled cause:

It Is Ordered that leave be and it is hereby granted to said petitioner to file instantan an amendment to petition heretofore filed by her in the above entitled cause.

Enter:

William H. Holly,  
Judge.

18      And on, to wit, the 15th day of January, A. D. 1934 came the Plaintiff by her attorneys and filed in the Clerk's office of said Court a certain Amendment to Petition in words and figures following, to wit:

Filed Jan. 1  
1934.

19      IN THE DISTRICT COURT OF THE UNITED STATES.  
          • • (Caption—39407) • •

AMENDMENT TO PETITION.

Elizabeth C. Jacobs, as Executrix under the Last Will and Testament of W. Francis Jacobs, deceased, hereby amends the Petition heretofore filed by her in the above entitled cause, by the addition of the following paragraph, to appear as Paragraph 15 of said Petition:

"15. In the event that it be determined that the Revenue Act of 1924 imposes a tax based upon the valuation of more than one-half ( $\frac{1}{2}$ ) of the real estate enumerated above in which W. Francis Jacobs was one of the joint owners with right of survivorship at the time of his death, then said Revenue Act of 1924 is in violation of the Constitution of the United States and the Amendments thereto."

Respectfully Submitted:

Elizabeth C. Jacobs,

*Executrix under the Last Will and  
Testament of W. Francis Jacobs,  
deceased.*

By Hugh W. McCulloch,

*Her Attorney.*

20 State of Illinois } ss.  
County of Cook }

Hugh W. McCulloch, being first duly sworn, on oath deposes and says that he has been duly appointed and is now acting as Attorney for Elizabeth C. Jacobs, as Executrix under the Last Will and Testament of W. Francis Jacobs, deceased, and that he has authority to make the foregoing Amendment to Petition signed by him: that he has read the foregoing and the same is true.

Hugh W. McCulloch.

Subscribed and sworn to before me this 13th day of January, A. D. 1934.

(Seal) Herman L. Taylor,  
Notary Public.

Apr. 14, 1937. 21 And on, to wit, the 14th day of April, A. D. 1937 came the parties by their attorneys and filed in the Clerk's office of said Court a certain Stipulation of Facts in words and figures following, to wit:

22 IN THE DISTRICT COURT OF THE UNITED STATES.  
\* \* (Caption—39407) \* \*

### STIPULATION OF FACTS.

It is hereby stipulated and agreed by and between the parties hereto by their respective attorneys that the following facts shall be taken as true, provided, however, that this stipulation shall be without prejudice to the right of either party to introduce other and further evidence not inconsistent with the facts herein stipulated to be taken as true.

1. On June 17, 1924, W. Francis Jacobs died a citizen of the United States and resident of Chicago, Illinois, leaving a last will and testament thereafter duly admitted to probate in the Probate Court of Cook County, and Elizabeth C. Jacobs was appointed executrix thereof, and letters testamentary were issued to her and that said letters testamentary were re-issued to her on May 3, 1928, and are now in full force and effect.

2. That Mabel G. Reinecke, formerly Collector of Internal



Revenue for the First District of the State of Illinois, to whom the payment of the Federal estate tax due from the estate of W. Francis Jacobs was made, is no longer in office and is no longer acting as such Collector of Internal Revenue.

3. On August 1, 1925, Elizabeth C. Jacobs, as executor of the Estate of W. Francis Jacobs, filed with the Collector of Internal Revenue for the First District of Illinois a Federal estate tax return on Form 706, which disclosed a gross estate of \$154,273.33, claimed deductions in the amount of \$82,045.26, resulting in a net estate of \$72,228.07, and a gross Federal estate tax of \$544.46. Credit on account of state inheritance tax payments was claimed in the amount of \$136.11, resulting in a net Federal estate tax of \$408.35, which amount was paid on August 1, 1925. A copy of said return is hereto attached, marked "Exhibit A", and by reference is made a part hereof.

4. Thereafter, the Commissioner of Internal Revenue made an audit and review of said estate and tentatively determined that there was a deficiency in respect of the tax in the amount of \$1,796.23. An additional credit on account of state inheritance tax payments was allowed in the amount of \$449.06, making a total credit of \$585.17, and resulting in an undischarged deficiency of \$1,347.17. The result of this audit and review by the Commissioner was fully set forth in letter dated December 23, 1926, which was mailed to the executrix of this estate. A copy of said letter of December 23, 1926 is hereto attached, marked "Exhibit B" and by reference is made a part hereof.

5. No protest was filed on behalf of the estate against the tentative findings made by the Commissioner as set forth in letter of December 23, 1926. Therefore the Commissioner of Internal Revenue made a final determination that there was an undischarged deficiency in the estate tax in the amount of \$1,347.17, and under date of March 22, 1927 mailed a letter to the executrix of this estate, advising her that the tentative findings set forth in said letter of December 23, 1926, were made final and that the undischarged deficiency in the estate tax was determined to be \$1,347.17. A copy of said letter of March 22, 1927, is hereto attached, marked "Exhibit C" and by reference is made a part hereof.

6. On April 20, 1927, the executrix paid this deficiency tax of \$1,347.17, plus interest in the amount of \$148.18, making a total payment of \$1,495.35.

7. On September 20, 1927, a claim for refund was filed by

the executrix, a copy of which is hereto attached, marked "Exhibit D" and by reference is made a part hereof. Thereafter, and on April 2, 1928, the executrix forwarded to the Commissioner of Internal Revenue an affidavit in support of her claim for refund, a copy of said affidavit is attached hereto as "Exhibit E", and by reference made a part hereof.

The claim for refund was allowed by the Commissioner in the amount of \$7.48, which amount was refunded to the executrix on May 23, 1928. The claim was rejected as to the balance. A copy of the certificate of overassessment showing the action taken by the Commissioner on this claim for refund is attached hereto, marked "Exhibit F", and by reference made a part hereof.

8. The Federal estate tax return filed by the executrix (Exhibit A) disclosed and included for tax under Schedule D (jointly owned property) as a part of the decedent's statutory gross estate the following item of property:

2749-59 Monticello Avenue, Chicago, Illinois, Encumbrance—\$17,000. Improved with three-story brick 18 flat building. Elizabeth C. Jacobs, widow of decedent, contributed \$3,000.00 toward purchase of this property. Fair market value of property at date of death—\$48,000.00; Amount to be included in gross estate—\$45,000.00.

This property was acquired by the decedent and his wife as joint tenants on November 23, 1917, and continued to be held by him and his wife as such joint tenants until the date of his death. A copy of the said conveying this property to the decedent and his wife as joint tenants is attached hereto, marked "Exhibit G," and by reference is made a part 25 hereof. Decedent's wife, Elizabeth C. Jacobs, contributed

\$3,000 or one-sixteenth of the price paid toward the purchase of this property and the decedent contributed the other fifteen-sixteenths. Except for the one-sixteenth contribution aforesaid, no part of this property, and no part of the funds which were used to purchase it originally belonged to the said Elizabeth C. Jacobs.

9. In the audit of this estate tax return, the Commissioner of Internal Revenue retained as a part of this decedent's gross estate the above-described property which was owned by the decedent and his wife as joint tenants, and not as tenants in common. The Commissioner, however, increased the value of this property to \$65,000.00, and included as a part of the gross estate of this decedent the sum of \$60,937.50, this being 15/16ths of the value of the property and representing the



proportion contributed toward the purchase price by this decedent, the other 1/16th having been contributed by the wife of the decedent.

10. In the audit of this estate tax return, the Commissioner of Internal Revenue included as a part of the decedent's statutory gross estate the following property:

Lots 11 and 12, Block 1, known as 1732 Humboldt Boulevard, Chicago, Illinois.

The Commissioner determined that the value of this property was \$19,000.00 and that it was taxable at its full value. This property was acquired by the decedent and his wife, as joint tenants on July 29, 1909, and decedent and his wife continued to hold such property in joint tenancy until the date of decedent's death. A copy of the deed conveying this property to the decedent and his wife as joint tenants is attached hereto and marked "Exhibit H", and by reference is made a part hereof. No part of this property and no part of the funds which were used to purchase it originally belonged to Elizabeth C. Jacobs, the widow of the decedent, but to the contrary the funds which were used to purchase it were the individual property of the decedent.

26 11. At the time of decedent's death, there was a mortgage on the Monticello Avenue property described in paragraph 8, in the amount of \$16,060.47. In the final audit of this estate the Commissioner of Internal Revenue allowed this amount as a deduction from the gross estate of the decedent for estate tax purposes. It is stipulated and agreed that if said Monticello Avenue property should be excluded from the decedent's statutory gross estate then and in that event the deductions allowable from the adjusted gross estate should be reduced from the amount originally allowed by the Commissioner of Internal Revenue by the amount of \$16,060.47, the mortgage deduction so allowed, and any recovery by the plaintiff herein should be reduced accordingly. It is further stipulated and agreed that if any portion of said Monticello Avenue property be excluded from the decedent's statutory gross estate then and in that event a like portion of the said \$16,060.47 deduction should be disallowed, and should reduce any recovery by the plaintiff proportionately.

McCulloch, McCulloch & McLaren,  
*Attorneys for plaintiff.*

M. L. Igoe, P.  
*United States Attorney, Attorney for  
Defendant.*

Treasury Department  
Internal Revenue Service  
Form 706—Revised December, 1924

To be Filed in Duplicate

Collection District 6009—1 Ill  
Bureau File No. \_\_\_\_\_

(Stamp) Office of Internal Revenue Received Aug 8 1925  
Estate Tax

(Stamp) Delinquent

### Extensions of Time to File Return

#### Extensions by Commissioner

Time extended to \_\_\_\_\_

Time extended to \_\_\_\_\_

Time extended to \_\_\_\_\_

#### Extension by Collector

Time extended to \_\_\_\_\_

Collector of Internal Revenue will stamp here date return filed.

Coll. Int. Rev.  
Aug-1 1925  
1st Dist. of Ill.

### Return for Federal Estate Tax

An Itemized Inventory by Schedule of the Gross Estate of the  
Decedent, with Legal Deductions

Decedent's name W. Francis Jacobs, Deceased.

Date of death June 17, 1924.

Residence at time of death 1732 Humboldt Boulevard, Chicago, Illinois.

### General Instructions—Read with Care

1. The return is required for the estate of every resident decedent the value of whose gross estate at the date of death exceeded \$50,000, and for the estate of every nonresident decedent any part of whose gross estate was, at the date of death, situated (within the meaning of the statute) in the United States. The term "United States" means only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

2. The return is due one year after the date of death. The Return for a Resident Decedent should be filed with the collector of the district in which such decedent was domiciled at the time of death, and remittance of the tax should be made payable to "Collector of Internal Revenue at \_\_\_\_\_," naming city in which the office of the collector is located.

3. The Return for a Nonresident Decedent should be filed with the United States Collector of Internal Revenue of the district in which any part of the gross estate was situated, or, if parts of the gross estate were situated in more than one district, then with such collector as the Commissioner may designate. Remittance in payment of the tax in nonresident estates should be made payable to "Collector of Internal Revenue at \_\_\_\_\_," naming city in which the office of the collector is located.

4. Regulations No. 68, 1924 Edition, should be carefully studied before making out the return, and if the decedent died prior to 4.01 p. m., Washington, D. C. time, June 2, 1924, reference should be made to Article 109 of such regulations.

5. All papers used in preparing the return should be carefully preserved for reference or inspection. All estate tax returns are verified by an Internal Revenue officer before the tax is determined by the Bureau.

6. If the decedent was a resident and left a will, two copies thereof, one of them certified, must be filed with the return. In the case of the estate of a Nonresident, there should be filed with the return—

(a) A certified copy of the will, if decedent died testate, or of each will, if decedent left more than one to govern in different jurisdictions.

(b) A certified copy of inventory of the complete gross estate, whether situated within or without the United States, if any deductions are claimed. In such case separate schedules should be made for property within and without the United States.

(c) A certified copy of schedule of debts and expenses allowed, if deduction thereof is claimed. If certified copy of inventory of all property outside the United States is filed with the return, such property need not be entered under the respective schedules of the return. See article 52, Regulations 68, 1924 Edition.

7. This form consists of cover sheets, general information sheet and fifteen schedules. Care should be taken to see that

the return is complete and that all schedules are included in the proper order.

In the estate of a resident the various items comprising the gross estate must be set forth upon the schedules provided.

8. The questions asked under each schedule should be specifically answered, and if the decedent owned no property of any class specified under the schedule, the word "None" should be written across the schedule.

9. If there is not sufficient space for all entries under any schedule, use additional sheets of the same size, numbering them consecutively, as, for example, Schedule A-1, A-2, etc., and insert them in the proper order in the return.

10. Further instructions will be found under each schedule. If instructions are carefully observed, it will greatly assist the estate and the Bureau in the final determination of the tax liability.

11. Penalties.—For failure to file return when due, the person in default is subject to a fine not exceeding \$500, and, in addition, 25 per centum of the tax may be added. If the failure to file the return was willful the person in default is liable, in addition to all other penalties, to a fine of not more than \$10,000, or to imprisonment for not more than one year, or both. Any person required to pay the tax, keep any records, or supply any information, who willfully fails to do so, shall, in addition to other penalties, be fined not more than \$10,000, or imprisoned not more than one year, or both. Where any statement in the return is knowingly false, the person making it is subject to a penalty not exceeding \$5,000, or imprisonment not exceeding one year, or both, and for the filing of a false or fraudulent return, 50 per centum of the entire tax will be added. Any person who willfully aids or assists in the preparation or presentation of a false or fraudulent return, affidavit, claim, or document, authorized or required by the Internal Revenue laws, or procures, counsels, or advises the preparation or presentation of such return, affidavit, claim, or document, shall be guilty of a felony and upon conviction fined not more than \$10,000, or imprisoned for not more than five years, or both, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document. (See Sections 317, 1017, and 1003 of the Revenue Act of 1924.)

## Estate of W. Francis Jacobs, Deceased.

District of Illinois.

## General Information Sheet

The information called for on this page is necessary for purposes of record and verification. Fill out all blanks carefully and completely.

The names of the decedent's legal heirs and next of kin, or if decedent left a will, the names of the beneficiaries thereunder, are required to be stated. If there are more than ten, only the names of the ten principal ones are required.

Did decedent die testate? (Answer "Yes" or "No.") Yes  
If testate, two copies, one of them certified, of the last will must be filed with the return, unless the decedent was a non-resident, in which case but one copy, certified, is required.

Permanent residence at time of death 1732 Humboldt Boulevard, Chicago, Ill.

Actual place of death Chicago, Illinois. Age at death 53

Cause of death Pneumonia

How long ill 11 days.

Business or employment Physician.

Business address 2400 West North Avenue, Chicago, Illinois.

Was decedent married or single at date of death? Married.

Widow? \_\_\_\_\_ Widower? \_\_\_\_\_

State number of children, if any Four

## Heirs, Next of Kin, Devisees and Legatees

Name	Relationship	Address
Elizabeth C. Jacobs,	Widow,	1732 Humboldt Boulevard, Chicago, Illinois.
Lee V. Jacobs,	Son,	1732 Humboldt Boulevard, Chicago, Illinois.
Althea M. Jacobs,	Daughter,	1732 Humboldt Boulevard, Chicago, Illinois.
Wm. Francis Jacobs, Jr.,	Son,	1732 Humboldt Boulevard, Chicago, Illinois.
Clyde V. Jacobs,	Son,	1732 Humboldt Boulevard, Chicago, Illinois.

Names of decedent's physicians: Address:  
Dr. Frank Smithies. 1002 N. Dearborn St., Chicago, Ill.

Names of physicians and nurses who attended decedent during last illness: Address:  
Miss Behm, St. Elizabeth's Hospital, Chicago, Ill.  
Miss Lauf, St. Elizabeth's Hospital, Chicago, Ill.

(If more space is needed, insert additional sheets of same size)

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Estate of W. Francis Jacobs, Deceased.  
District of Illinois.

Gross Estate  
Schedule A  
Real Estate

Instructions

Article 12 of Regulations 68, 1924 Edition, should be read before preparing this schedule.

Real estate should be so described that it may be readily located. The legal description is not required unless necessary to show the exact location. The character of the buildings should be stated and the character and area of unimproved land. For location, such details as the following may be necessary:

City or Town Property.—Street and number, ward, subdivision, block and lot, etc.

Rural Property.—Township, range, block and lot, street, landmarks, etc.

If any item of real estate is subject to mortgage, the unpaid balance of the mortgage should be shown below under "Description." The full value of the property and not the equity must be extended in the value column. The mortgage should be deducted under Schedule J of this return.

The value of dower, curtesy, or a statutory estate created in lieu thereof, is taxable, and no reduction on account thereof should be made in returning the value of the real estate.

All rents accrued and unpaid should be apportioned to the date of death whether due at that time or not.

For further instructions see Articles 10 to 13, inclusive, Regulations No. 68, 1924 edition.

Did the decedent, at the time of death, own any real estate? (Answer "Yes" or "No.") Yes.

Item No.	Description	Assessed value for year of decedent's death	Fair market value at date of decedent's death	Rents accrued to date of death
1	3900 Altgeld Street, Chicago, Ill. Unincumbered and improved with a two-story and basement 8-flat brick building.....	\$ 3,712.00	\$20,000.00	
2	2400 West North Avenue, Chicago, Ill. Unincumbered and improved with a two-story brick and frame building, 4 stores, 3 flats and 1 office.....	10,250.00	35,000.00	
Totals.....			\$55,000.00	\$.....
Grand Total.....				\$55,000.00



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## Schedule B

## Stocks and Bonds

## Instructions

Give a complete description of all securities.

**Stocks.**—States the number of shares, common or preferred, par value, and quotation at which returned, exact title of corporation, and, if the stock is unlisted, the location of the principal business office. If a listed security, state principal exchange upon which sold.

Examples: 10 shares American Car & Foundry Co., preferred, par \$100, at 98, New York Exchange.  
10 shares Eagle Manufacturing Co., Red Bank, N. J., common, par \$25, at 30, unlisted.

**Bonds.**—State quantity and denomination, exact title, kind of bond, interest rate, interest and due dates. State the exchange upon which listed or the principal business office of the company, if unlisted.

Example: Ten \$1,000 Baltimore and Ohio Railway Co. first mortgage 4 per cent registered 50-year gold bonds, due 1946. January, April, July, and October, at 96, New York Exchange.

Listed stocks and bonds should be returned at the mean between the highest and lowest quoted selling price upon the date of death, or if there were no sales on day of death, then at the mean between the highest and lowest sales on the nearest date thereto, if within a reasonable period. If death occurred on a Sunday or holiday quotations of the nearest previous day should be used; if listed on several exchanges, quotations of the principal exchange should be employed.

If actual sales are not available and the stock is quoted on a bid and asked basis, the bid as of date of death should be taken.

Unlisted securities which are dealt in actively by brokers or have an active market should be returned at the sale price as of the date of death or the nearest date thereto, if within a reasonable period either before or after death. Only sales in the normal course of business should be employed. Where

no such sale occurred the nearest bid should be used, if within a reasonable period either before or after death.

Inactive stock and stock in close corporations should be valued upon the basis of the company's net worth, earning and dividend paying capacity, general market conditions, and special conditions affecting the particular company, its future prospects, and all other factors having a bearing upon the value of the stock. The financial and other data upon which the estate bases its valuation should be submitted with the return.

Securities returned as of no value, nominal value, or obsolete, should be listed last, and the address of the company and the State and date of incorporation should be stated. Correspondence or statements used as the basis for return at no value should be retained for inspection.

Interest on bonds should be apportioned to the date of death and returned in the interest column. Dividends upon stock declared prior to death, and payable after date of death, must be returned separately in the interest column unless reflected in the price at which the stock is returned.

In estates of nonresidents there should be listed in this schedule all stocks and bonds physically in the United States at date of death (as to meaning of the term "United States" see paragraph "1" on the first page of this form), and the actual depository on that date should be shown. In such estates there should also be listed in this schedule the stocks of all corporations and associations created or organized in the United States. The foregoing requirements of this paragraph should be complied with, even though an inventory of the entire gross estate wherever situated is filed with the return.

Paragraph 3 of Article 13, and Article 12, Regulations No. 68, 1924 Edition, should be carefully reviewed before preparing this schedule.

Did the decedent, at the time of death, own any stocks or bonds? (Answer "Yes" or "No.") Yes

If a resident decedent owned any stocks or bonds at the date of his death, they should be entered on pages 5 and 6. If the decedent was a nonresident there should be entered on pages 5 and 6, such stocks and bonds subject to tax as above indicated.



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Estate of W. Francis Jacobs, Deceased.

District of Illinois.

Schedule B—Continued

## Instructions

For detailed instructions regarding the method of valuing stocks and bonds, see the preceding page.

Item No.	Description	Fair market value at day of death	Interest or dividends
Stock			
1	Certificate No. 76 for 100 shares of common stock, par value \$10.00 per share, of Minor Building Corporation, an Illinois corporation, issued to Decedent. This certificate is endorsed "Only 50% of the par value of this stock has been called for payment and has been paid. If, as and when the balance is called for payment and is paid, this certificate should be exchanged for one omitting this endorsement" .....	\$ 500.00	\$ .....
2	Certificates No. 14 for 1 share and No. 15 for 15 shares of common stock, par value \$10.00 per share, of Bodi-Tone Company, Ltd., incorporated under the Ontario Companies Act, issued to decedent .....	180.00	.....
3	Certificates Nos. 8 for 8 shares and 14 for 24 shares of common stock, par value \$10.00 per share, of Bodi-Tone Company, an Illinois corporation, issued to decedent .....	320.00	.....
4	Certificates Nos. 3 for 11 shares, 5 for 5 shares, 6 for 5 shares and 9 for 4 shares of common stock, par value \$100.00 per share of W. H. Grimm Hardware Company, an Illinois corporation, issued to decedent .....	5,000.00	.....
5	Certificate No. 1414 for 50 shares and Nos. 1604, 1605, 1606, 1607 and 1608 for 10 shares each, and No. 2086 for 5 shares of common stock, par value \$100.00 per share, of Noel State Bank, an Illinois corporation, issued to decedent.....	20,475.00	196.89
32			
6	Certificate No. 676 for 10 shares of preferred stock, par value \$10.00 per share, of Industrial Loan & Guarantee Company, a Virginia corporation, issued to decedent .....	100.00	1.50

Item No.	Description	Fair mar- ket value at day of death	Interest or dividends
7	Certificate No. 116 for 2 shares of 8% cumulative preferred stock, par value \$100. per share, of American Medical Products Company, Inc., a New York corporation, issued to decedent.....	None	.....
8	Certificates Nos. 363 for 2 shares and 1081 for 8 shares of common stock of no par value of American Medical Products Company, Inc., a New York corporation, issued to decedent.....	"	.....
9	Certificates No. 8 for 5 shares of 7% preferred stock, par value \$100.00 per share, of National Industries Company, an Arizona corporation, issued to decedent .....	"	.....
10	Certificate No. 11 for 10 shares of common stock, par value \$50.00 per share, of National Industries Company, an Arizona corporation, issued to decedent .....	"	.....
11	Certificate No. 1851 for 200 shares of common stock, par value \$1.00 per share, of San Pedro-Point Fermin Oil & Gas Co., a California corporation, issued to decedent .....	"	.....
12	Certificates Nos. 245 for 1425 shares and 309 for 100 shares of common stock, of no par value, of Pitney-Bowes Postage Meter Co., a Delaware corporation, issued to decedent.....	"	.....
33			
13	Certificates Nos. 610 for 100 shares, 759 for 5000 shares, 760 for 5000 shares, 761 for 5000 shares, 762 for 5000 shares, 763 for 4000 shares, 764 for 650 shares, 1185 for 100 shares, 1267 for 1000 shares, 1344 for 2000 shares and 1349 for 600 shares, of common stock, par value \$1.00 per share, of Harmony Mines Company, a Nevada corporation, issued to decedent .....	None	.....
14	Certificate No. 981 for 1000 shares of common stock, par value \$1.00 per share, of the Arstad Oil, a Montana corporation, issued to decedent.....	"	.....
15	Certificate No. 7608 for 83-5/10 shares of common stock, Class A, par value \$10.00 per share, of Lewis Oil Corporation, a Delaware corporation, issued to decedent .....	"	.....
16	Certificates Nos. 1138 for 3000 shares, 1160 for 2000 shares and 1169 for 1500 shares of common stock, par value \$1.00 per share, of Blue Bell Mining Company, Ltd., an Idaho corporation, issued to decedent .....	"	.....
17	Certificates Nos. 3493 for 100 shares and 3623 for 100 shares of common stock, par value \$.50 per share, of Jerome Superior Copper Company, an Arizona corporation, issued to decedent.....	"	.....

# Exhibit A.

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Item No.	Description	Fair market value at day of death	Interest or dividends
18	Certificates Nos. 5938 for 4 shares, 12481 for 1 share, 15000 for 1 share, 16355 for 50 shares, 17365 for 1 share, 19069 for 1 share, 21111 for 1 share, 22804 for 1 share, 30289 for 33 shares and 30727 for 1 share of preferred stock, par value \$10.00 per share, of Dennon Products Company, an Arizona corporation, issued to decedent.....	"	.....
34			
19	Certificates Nos. 317 for 10 shares and 1838 for 30/100 share of common stock, par value \$10.00 per share, of Lafayette Building Corporation, an Illinois corporation, issued to decedent.....	None	.....
20	Certificate No. 255 for 40/100 share of preferred stock, par value \$100.00 per share, of Union Bond & Mortgage Co., a Delaware corporation, issued to decedent .....	"	.....
21	Certificates Nos. 801 for 1900 shares, 2014 for 500 shares and 2142 for 2500 shares of common stock, par value \$1.00 per share, of The Wasatch-Colorado Mining Company, a South Dakota corporation, issued to decedent.....	"	.....
22	Certificates Nos. 310 for 342 shares and 996 for 50 shares of preferred stock, par value \$1.00 per share, of The Wasatch-Colorado Mining Company, a South Dakota corporation, issued to decedent....	"	.....
23	Certificate of interest No. 196 for 20 units (20/1000 interest) in Tick Canyon Oil Syndicate, an unincorporated association of Los Angeles, California, issued to decedent.....	"	.....
24	Certificate of interest Nos. 24 for 2 units, 204 for 8 units, 328 for 15 units, 360 for 7 units, 374 for 3 units, 395 for 5 units, 527 for 5 units, 611 for 2 units and 691 for 3 units (100/1000 interest) in Tick Canyon Oil Syndicate, an unincorporated association of Los Angeles, California.....	"	.....
Totals .....		\$26,555.00	\$ 198.39
Grand Total.....			\$26,753.39

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Estate of W. Francis Jacobs, Dec'd.

District of Illinois.

## Schedule C

## Mortgages, Notes, Cash, and Insurance

## Instructions

Article 12 of Regulations 68, 1924 Edition, should be read before preparing this schedule.

The four classes of property on this schedule should be listed separately in the order given.

**Mortgages.**—State (1) face value and unpaid balance, (2) date of mortgage, (3) name of maker, (4) property mortgaged, (5) interest dates and rate of interest, and (6) amount of unpaid interest. For example: Bond and mortgage for \$5,000, unpaid balance \$4,000; dated January 1, 1923, John Doe to Richard Roe; premises 22 Clinton St., Newark, N. J.; interest payable at 6 per cent per annum January 1 and July 1; interest paid to January 1, 1924; unpaid interest \$30.

**Notes, Promissory.**—Give similar data.

**Cash in Possession.**—List separately from bank deposits.

**Cash in Bank.**—Name bank and address, amount in each bank, serial number and nature of account, stating whether checking, savings, time deposit, etc. Include accrued interest in income column, or indicate if included in total on deposit. If statements are obtained from banks they should be retained for inspection by an internal-revenue agent.

**Insurance.**—The proceeds of all life insurance to whomsoever payable must be returned regardless of value. Insurance payable to the estate must be returned first. State (1) name of company, (2) number of policy, (3) name of beneficiary. Include full amount received.

**Important.**—If there is insurance payable to beneficiaries other than the estate, deduction may be taken at bottom of this page equal to the amount returned for such insurance, but not exceeding \$40,000.

If decedent was a nonresident, and died subsequent to 3.55 p. m. November 23, 1921, Washington, D. C., time, insurance on his life need not be included as a part of his gross estate. Neither should bank accounts situated in this country be included where the nonresident decedent died subsequent to said

date unless decedent was doing business in the United States. All facts concerning such an account should be reported where it is contended that the account is not taxable.

For further instructions see articles 25 to 28, inclusive, Regulations No. 68, 1924 Edition.

(1) Did the decedent, at the time of his death, own any mortgages, notes, or cash? (Answer "Yes" or "No.") Yes

(2) Was any insurance on life of decedent receivable by his estate? (Answer "Yes" or "No.") No

(3) Was any insurance on life of decedent receivable by beneficiaries other than the estate? (Answer "Yes" or "No.") Yes

Item No.	Description	Fair market value at day of death	Income or interest accrued to date of death
1	Note from Walter H. Grimm, payable to Decedent, dated January 1, 1921, for \$4,900.00, due 5 years after date, with interest at 6% after January 1, 1921. Credits: Interest paid to January 1, 1922. Interest from January 1, 1922 unpaid.....	\$ 4,900.00	\$ 1,009.60
2	Note of W. H. Grimm Hardware Company, payable to decedent, dated January 2, 1924, for \$17,000.00, due one year after date with interest at 7% per annum. No credits. Interest from date of note unpaid .....	17,000.00	545.38
3	Note from Alfred Mathisen, payable to decedent, dated May 28, 1924, for \$275.00, due one year after date. No credits. Note bears no interest.....	275.00	.....
36			
4	From Christ Boyschau, payable to Decedent, dated February 14, 1924, for \$500.00, due one year after date, with interest at 6% per annum. No credits. Interest from date of note unpaid.....	500.00	15.00
5	Note from Harmony Mines Company, payable to decedent, dated April 19, 1923, \$1000.00, due one year after date with interest at 7% per annum, payable semi-annually. No credits. Interest coupons for \$35.00 each, due respectively October 19, 1923 and October 19, 1924, unpaid.....	None	.....
6	Note from Harmony Mines Company, payable to decedent, dated July 1, 1923, \$500.00, due one year after date, interest at 7% per annum, payable semi-annually. Interest coupons for \$17.50 each, due respectively January 1, 1924 and July 1, 1924, unpaid .....	"	.....
7	Note from Edward H. Jacobs, payable to decedent, dated January 2, 1924, for \$7,825.36, due January 1, 1925, with interest at 6%. No credits. Interest from date of note unpaid.....	"	.....

## Exhibit A.

Item No.	Description	Fair market value at day of death	Income or interest accrued to date of death
8	Note from J. E. Jacobs, payable to decedent, dated January 1, 1924, \$2,862.00, due one year after date, interest at 6% per annum. No credits. Interest from date of note unpaid.....	"	_____
9	Note from J. E. Jacobs, payable to decedent, dated February 26, 1924, \$300.00, due on demand, with interest at 6% per annum. No credits. Interest from date of note unpaid.....	"	_____
37			
10	Note from Dr. A. F. McKenzie, payable to decedent, for \$3,400.00, due May 30, 1919.....	None	_____
11	Note from Dr. A. F. McKenzie, payable to decedent, for \$7,700.00, due February 4, 1925.....	"	_____
12	Cash on hand at time of decease.....	975.00	_____
13	Northwestern Mutual Life Insurance Co. payable to Elizabeth C. Jacobs, wife.....	10,000.00	_____
14	Prudential Life Insurance Co., policy #141970, payable to Elizabeth C. Jacobs, wife, Lee V. Jacobs, Althea M. Jacobs, William F. Jacobs, Jr., and Clyde Jacobs, children .....	2,391.93	74.58
15	Metropolitan Life Insurance Co. payable to Elizabeth C. Jacobs, wife.....	1,000.00	_____
16	Royal Leag Benefit, payable to Elizabeth C. Jacobs, wife .....	1,000.00	_____
17	Catholic Order of Foresters, payable to Elizabeth C. Jacobs, wife.....	1,000.00	_____
18	The Maccabees Benefit, payable to Elizabeth C. Jacobs, wife .....	1,000.00	_____
19	Prudential Life Ins. Co., Policy #2907901, payable to Lee V., Althea M., William F. Jr. and Clyde Jacobs, children .....	20,000.00	685.38
	Total .....	\$60,041.93	
	Less amount of insurance receivable by beneficiaries, other than the estate, not in excess of \$40,000.00.....	38,391.93	
	Total .....	23,650.00	2,329.94
	Grand Total.....		\$25,979.94

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Estate of W. Francis Jacobs, Deceased.

District of Illinois.

Schedule D-1

Jointly Owned Property

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Instructions

Article 12 of Regulations 68, 1924 Edition, should be read before preparing this schedule.

All property of whatever kind or character, whether real estate, personal property, bank accounts, etc., in which the decedent held at the time of his death an interest either as a joint tenant or as a tenant by the entirety, must be returned under this schedule.

The full value of the property must be included in the fourth column, unless it can be shown that a part of the property originally belonged to the other tenant or tenants and was never received or acquired by the latter from the decedent for less than a fair consideration in money or money's worth. (See section 302 (e) of act approved June 2, 1924, and articles 22 and 23, Regulations No. 68, 1924 Edition.)

Where it is shown that the property or any part thereof, or any part of the consideration with which the property was purchased, was acquired by the other tenant or tenants from the decedent for less than a fair consideration in money or money's worth, there should be omitted from this schedule only so much of the value of the property as is proportionate to the consideration furnished by such other tenant or tenants.

Where the property was acquired by gift, bequest, devise, or inheritance by the decedent and spouse as tenants by the entirety, then only one-half of the value of the property should be listed on this schedule. Where the property was acquired by the decedent and another person or persons by gift, bequest, devise, or inheritance as joint tenants, and their interests are not otherwise specified or fixed by law, then there should be entered on this schedule only such fractional part of the value of the property as is obtained by dividing the full value of the property by the number of joint tenants.

If the executor contends that less than the value of the entire property is includable in the gross estate for purposes



*Exhibit A.*

of the tax, the burden is upon him to show his right to include such lesser value, and in such case he should make proof of the extent, origin, and nature of the decedent's interest and the interest of decedent's cotenant or cotenants.

If the property consists of real estate, the assessed value thereof for the year of death should be shown in the second column, headed "Description of property." In the third column should be entered the fair market value of the whole property, even though only a fractional part thereof is returnable in column 4. In the fourth column should be entered the amount to be included in the gross estate pursuant to the instructions given above. In the fifth column should be entered the rents, interest, and other income accrued to the date of decedent's death in the same proportion as the amount entered in column 4 bears to the amount entered in column 3.

Property in which the decedent held an interest as a tenant in common should not be listed here, but the value of his interest therein should be returned under Schedule A, if real estate, or if personal property, under the appropriate schedule. The value of the decedent's interest in partnerships should not be included here, but under Schedule D-2, on the following page, designated as "Other Miscellaneous Property."

Item No.	Description of property	Fair market value of the property at date of deced- ent's death	Amount to be included in gross estate	Rents and other income accrued to date of death
1	2749-59 Monticello Avenue, Chicago, Ill- nois. Encumbrance \$17,000.00. Improved with three-story brick 18 flat building. Assessed valuation \$8,900.00. Acquired fall 1916. Elizabeth C. Jacobs, widow of decedent, contributed \$3000.00 toward pur- chase of this property.....	\$48,000.00	\$45,000.00	\$.....
	Totals .....		\$45,000.00	\$.....
	Grand Total .....			\$45,000.00

(If more space is needed, insert additional sheets of same size)



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Estate of W. FRANCIS JACOBS, Deceased.

District of Illinois.

Schedule D-2

Other Miscellaneous Property

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Instructions

Article 12 of Regulations 68, 1924 Edition, should be read before preparing this schedule.

Under this schedule include all items of gross estate not returned under another schedule, including the following: Debts due the decedent; interests in business; claims, rights, royalties, pensions; leaseholds, judgments, shares in trust funds or in estates of decedents who died more than five years prior to the present decedent's death, or in estates of decedents who died within five years prior to the present decedent's death where the share therein is not reported on schedule G, or on another schedule of this return; household goods and personal effects, including wearing apparel; farm products and growing crops; livestock, farm machinery, automobiles, etc.

When an interest in a copartnership or unincorporated business is returned, submit in duplicate statement of assets and liabilities as of date of death and for the five years preceding death, and statement of the net earnings for the same five years. Good will must be accounted for. In general, the same information should be furnished and the same methods followed as in valuing close corporations.

In listing automobiles give make, model, year, and condition as of date of decedent's death.

Did the decedent, at the time of his death, own any interest in a copartnership or unincorporated business? (Answer "Yes" or "No.") No.

Did the decedent, at the time of his death, own any miscellaneous property not returnable under any other schedule? (Answer "Yes" or "No.") Yes.

Item No.	Description	Fair market value at day of death	Interest and other income accrued to date of death
1	One stop watch.....	\$ 20.00	\$.....
2	Three suits of clothes.....	45.00	.....
3	One set physician's instruments.....	100.00	.....
4	One Stearns-Knight automobile, touring, 1917, bad.	100.00	.....
5	One Franklin Automobile, Sedan, 1923, fair.....	1,375.00	.....
Totals .....		\$1,540.00	\$.....
Grand Total .....			\$1,540.00

(If more space is needed, insert additional sheets of same size)

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Estate of W. Francis Jacobs, Deceased.

District of Illinois.

Schedule E

Transfers

Instructions

Article 12 of Regulations 68, 1924 Edition, should be read before preparing this schedule.

All gifts and transfers, including trusts, made or created by the decedent, regardless of the date thereof, in contemplation of or intended to take effect in possession or enjoyment at or after death, other than by bona fide sales for a fair consideration in money or money's worth, are subject to the tax and must be returned under this schedule and the value of the property entered in the fourth column.

All transfers made by the decedent within two years of his death, other than bona fide sales for a fair consideration in money or money's worth, are deemed to have been made in contemplation of death if of a material part of the decedent's property, and the value of the property must be entered in the third column and must also be extended into the fourth column for inclusion in the gross estate unless the executor has clear evidence to show that the transfers in question were not in fact made in contemplation of death, and such evidence accompanies the return.

The executor is required to report any transfer of an amount or value of \$1,000 or more made by the decedent within two years of his death, and not constituting a bona fide sale for a fair consideration in money or money's worth.

All transfers of a material part of the decedent's estate made more than two years prior to death must be listed in this schedule, but the value need not be extended into the fourth column if the executor contends that the transfers were not made in contemplation of death.

In all cases where a transfer of a material part of the decedent's property, made within two years of death, is listed in this schedule, but the value not extended into the fourth column for inclusion in the gross estate, the executor is required to submit as a part of the return documentary evidence in the form of affidavits fully setting forth all the facts and circumstances indicating the intent of the decedent in making the transfer, and also one certified copy of death certificate.

All property transferred, by the decedent during his lifetime, except bona fide sales for a fair consideration in money or money's worth, constitutes a part of the gross estate if at the time of the decedent's death the enjoyment thereof was subject to any change through the exercise of a power to alter, amend, or revoke, either by the decedent alone or in conjunction with any person. Where property was so transferred and the decedent, in contemplation of death, relinquished the power to alter, amend, or revoke the transfer, the transfer is subject to tax, and the value of the property must be included in columns 3 and 4 of this schedule.

Where the transfer was effected by an instrument in writing, two copies of such instrument should be filed with the return, one copy of which must be certified or verified, unless the decedent was a nonresident, in which case but one copy, certified or verified, need be filed.

The name of transferee, date and form of transfer, description of property, and fair market value at time of death should be set forth in this schedule. For further instructions see articles 15 to 21, inclusive, Regulations No. 68, 1924 Edition.

(1) Did the decedent, at any time during his life, make any transfer in contemplation of or intended to take effect in possession or enjoyment at or after his death, other than by bona fide sale for a fair consideration in money or money's worth? (Answer "Yes" or "No.") No.

(2) Did the decedent, within two years immediately preceding his death, make any transfer of a material part of his

property without a fair consideration in money or money's worth? (Answer "Yes" or "No.") No.

(3) Did the decedent, within two years immediately preceding his death, make any transfer of an amount or value equal to or exceeding \$1,000 without a fair consideration in money or money's worth? (Answer "Yes" or "No.") No.

(4) Did the decedent, at any time, make a transfer of a material part of his property without a fair consideration in money or money's worth, but not believed to have been in contemplation of death or intended to take effect in possession or enjoyment at or after his death? (Answer "Yes" or "No.") No.

(5) If the answer to question (4) is "Yes," state date, amount or value, and motive which actuated the decedent in making the transfer or transfers:

None

(6) Did the decedent, at the time of his death, possess the right (either alone or in conjunction with any person), to change through the exercise of a power to alter, amend, or revoke the enjoyment of any property previously transferred by him? (Answer "Yes" or "No.") No.

(7) Did the decedent, at any time during his life, relinquish in contemplation of his death the power to alter, amend, or revoke any transfer previously made by him? (Answer "Yes" or "No.") No.

(8) If the answer to either questions (6) or (7), or both of them, is "Yes," the value of the property transferred must be entered in column 4 for inclusion in the gross estate.

(9) Were there in existence at the time of the decedent's death any trusts created by him during his lifetime? (Answer "Yes" or "No.") No.

Item No.	Description of property transferred, and details of transfer	Fair market value at day of death	Fair market value to be included in gross estate	Rents or other income accrued to day of death
	None	\$.....	\$.....	\$.....
Totals .....			\$.....	\$.....
Grand Total .....				\$.....
Amounts Carried Forward.....			\$.....	\$.....

(Continued on following page)

## 41 Estate of W. Francis Jacobs, Deceased.

District of Illinois.

## Schedule E—Continued

For Instructions—See Page 10

Item No.	Description of property transferred and details of transfer	Fair market value at day of death	Fair market value to be included in gross estate	Rents and other income accrued to day of death
	Amounts brought forward.....	\$.....	\$.....	\$.....
		\$.....		
	Totals .....	\$	None	\$ None
	Grand Total! .....	\$		None

(If more space is needed, insert additional sheets of same size)

## 42 Estate of W. Francis Jacobs, Deceased.

District of Illinois.

## Schedule F

## Powers of Appointment

## Instructions

Article 12 of Regulations 68, 1924 Edition, should be read before preparing this schedule.

Property passing under a general power of appointment exercised in the decedent's will must be returned. If the decedent exercised a general power by deed, the value of the property must be included in the gross estate if the deed was made in contemplation of death or intended to take effect in possession or enjoyment at or after death, except where executed for a fair consideration in money or money's worth.

Duplicate copies of the will or deed conferring the power upon the decedent, and of the instrument by which the power was exercised, must be filed with the return, and one copy of

such will, deed and instrument must be duly certified or verified, unless the decedent was a nonresident, in which case but one copy of each of the documents referred to, certified or verified, need be filed. This should be done even though it is contended that the power was a limited one and the property passing thereunder is not returned as taxable.

Property passing under the exercise of a power of appointment should not be listed under any other schedule.

For further instructions see Article 24, Regulation No. 68, 1924 Edition.

(1) Did the decedent, at any time, by will or otherwise, transfer property by the exercise of a general power of appointment? (Answer "Yes" or "No.") No.

(2) Did the decedent, at any time, by will or otherwise, exercise a limited power of appointment? (Answer "Yes" or "No.") No.

Item No.	Description and details	Fair market value at day of death	Rents and other income accrued to day of death
	None	\$ None	\$ None
Totals .....		\$ None	\$ None
Grand Total .....		\$ None	\$ None

(If more space is needed, insert additional sheets of same size)

43 Estate of W. Francis Jacobs, Deceased.

District of Illinois.

Schedule G

Property Identified as Previously Taxed

### Instructions

Before executing this schedule read carefully articles 41 to 43, inclusive, and 53, Regulations 68, 1924 Edition. (If the present decedent's death occurred prior to the passage of the Revenue Act of 1924, articles 44 to 46 and article 56 of Reg-

ulations 63, 1922 Edition, as amended by article 109 of Regulations 68, 1924 Edition, control, and should be carefully read and Form 706, revised in November, 1923, should be used.)

Property identified as received from a donor or a prior decedent within five years prior to the present decedent's death or acquired in exchange for such property, must be included in this schedule at the value at the date of the present decedent's death whether greater or less than the value as included in the donor's gift tax return, or in the return for the prior decedent, and deduction taken under Schedule K. The deduction is limited to the identical property received or property identified as acquired by first exchange of such property. No deduction is permitted for property acquired by a second or subsequent exchange.

Where property identified as acquired by first exchange is returned, it must be listed in such manner as to indicate that fact and to show the original property received from the donor or the prior decedent.

If property is acquired by exchange, the full value thereof at the date of the present decedent's death must be entered in this schedule and carried forward to the recapitulation of the gross estate, even though the present decedent gave additional valuable consideration over and above the value of the property given in the exchange.

Unless property can be clearly identified and the full tax due from the donor or prior estate has been paid, the deduction can not be taken. The burden of proof rests upon the person claiming the deduction.

Where properties listed on this schedule were received from more than one donor or prior decedent, set out separately the property received from each, and give with respect to each donor or prior decedent the information called for immediately below.

#### Donor or Prior Decedent

Name of donor or prior decedent.....  
(Strike out words not applicable)

If a decedent, show date of death, or if a donor, show calendar year in which gift to this decedent was made.....

Residence of donor at time of gift, or of decedent at time of death .....



Name and address of administrator or executor of prior decedent \_\_\_\_\_

Return was filed with Collector at \_\_\_\_\_

Item No.	Description	Fair market value at day of present decedent's death	Rents and other income accrued to day of present decedent's death	
	None	\$ None	\$	None
Totals .....		\$ None	\$	None
Grand Total to be Included in the Gross Estate.....			\$	None

(If more space is needed, insert additional sheets of same size)

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Estate of W. Francis Jacobs, Deceased.

District of Illinois.

Deductions

Schedule H

Funeral and Administration Expenses

#### Instructions

Funeral expenses and administration expenses should be itemized, giving names and addresses of persons to whom payable, and exact nature of the particular expense. Preserve all vouchers and receipts for inspection by an internal revenue agent.

No deduction may be taken upon the basis of a vague or uncertain estimate.

Executors' or administrators' commissions should be entered in such amount as has actually been paid, or which it is reasonably expected will be paid, not to exceed the amount allowable by the laws of the jurisdiction wherein the estate is administered, and not in excess of the amount usually allowed in cases similar to that of this estate. Where the commissions have not been awarded by the court, their deduction on final audit is discretionary with the Commissioner, subject to future adjustment.

Attorneys' fees should be deducted in the amount paid, or

to be paid. If the fees have not been paid at the time of the final audit, their deduction is discretionary with the Commissioner, subject to future adjustment.

Estate, legacy, succession, and inheritance taxes, and taxes on income received after death, are not deductible. Credit to a limited extent may be taken for estate, legacy, succession, inheritance and gift taxes, provided the conditions named in article 9 of Regulations 68, 1924 Edition, are fully met.

For further instructions see Articles 9, 29 to 35, inclusive, and 52, Regulations No. 68, 1924 Edition.

Item No.	Amount of Item	Totals
<b>Funeral expenses:</b>		
1 Joseph Schneider, Undertaker, 6110 Cottage Grove Avenue, Chicago, Illinois, for burial of decedent...\$	731.10	\$.....
Ref. T. F. Quinn, Saint Sylvester's Church, Chicago, Illinois, for officiation at funeral.....	40.00	.....
<b>Total Funeral Expenses.....</b>		<b>\$ 771.10</b>
Executor's commission, estimated.....	\$3,000.00	
Attorney's fee, estimated.....	\$2,500.00	
<b>Miscellaneous administration expenses:</b>		
Clerk of Probate Court, Cook Co., Ill. (Est.)....	150.00	
Personal property taxes 1925, based on an assessment by Board of Assessors at \$6,000.00.....	300.00	
<b>Total Administration Expenses.....</b>	<b>\$5,950.00</b>	<b>\$5,950.00</b>
<b>Grand Total .....</b>		<b>\$6,721.10</b>

(If more space is needed, insert additional sheets of same size)

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Estate of W. Francis Jacobs, Dec'd.

District of Illinois.

Schedule I

Debts of Decedent

### Instructions

Itemize fully below all valid debts of the decedent owing by him at the time of death.

If deduction is claimed for a debt, the amount of which is disputed or the subject of litigation, only such amount may be deducted as the estate concedes to be a valid claim. If the claim is contested, that fact should be stated.

*Exhibit A.*

Enter in this schedule notes unsecured by mortgage and give full details, including name of payee, face and unpaid balance, date and term of note, interest rate and date to which interest was paid prior to death.

Care must be taken to state the exact nature of the claim as well as the name of the creditor. If the claim is for services rendered over a period of time, state the period covered by the claim. Example: Edison Electric Illuminating Company for electric service during December, 1923, \$25.

All Vouchers or Original Records should be preserved for inspection by an internal revenue agent.

For further instructions see Articles 29, 30, 36, 37, and 52, Regulations No. 68, 1924 Edition.

Item No.	Creditor and nature of claim	Amount
1	Alfred Mathison, for furniture repairs.....	\$ 33.00
2	Miss Behm for nursing services during last illness.....	30.00
3	Miss Lauf for nursing services during last illness.....	30.00
4	Harry D. Knight, claim filed in Probate Court of Cook County, Illinois, for \$3,453.00. This claim is disputed, the subject of litigation and is being contested. Claim for deduction is reserved.	
Total.....		\$ 93.00

(If more space is needed, insert additional sheets of same size)

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Estate of W. Francis Jacobs, Deceased.

District of Illinois.

Schedule J

Mortgages, Net Losses, and Support of Dependents

### Instructions

**Mortgages.**—Give location of property, name of mortgagee, date and term of mortgage, face amount, unpaid balance, rate of interest, date to which interest was paid prior to death. Identify by item number, as listed in Schedule A, the property securing each mortgage. Enter in fourth column accrued interest accrued to date of death. Mortgages upon, or any indebtedness in respect to, property included in the gross estate is deductible only to the extent that the liability for the mortgage or indebtedness was incurred or contracted bona fide and for a fair consideration in money or money's worth. Unsecured notes should be listed on Schedule I.

**Losses.**—Losses are strictly limited to those arising from fire, storm, shipwreck, or other casualty, or from theft, to the extent that such losses are not compensated for by insurance or otherwise. Losses must occur during the settlement of the estate. Depreciation in the value of securities or other property does not constitute a deductible loss. In listing losses, full particulars must be given not only as to the loss sustained, but the cause thereof, and in the case of death of livestock, the cause of death must be stated, if known. If insurance or other compensation was received on account of loss, state the amount collected.

**Support of Dependents.**—No deduction may be taken for support of dependents unless the local law permits the allowance, the local court has made a decree specifying the amount thereof, and in fact the allowance was reasonably required for the support of the person in question during the settlement of the estate, and actual disbursement was made from the assets of the estate to the dependents.

For further instructions see Articles 38, 39, 40, and 52, Regulations No. 68, 1924 Edition.

Item No.	Mortgages	Unpaid amount at day of decedent's death	Interest accrued to day of death
1	2749-59 Monticello Avenue, Chicago, Illinois, Joseph R. Noel, Trustee, \$17,000.00, unpaid balance \$17,000.00, 6%, interest paid to May 1, 1924. Dated November 1, 1920, due five years after date .....	\$17,000.00	\$ 131.16
	<b>Totals .....</b>	<b>\$17,000.00</b>	<b>\$ 131.16</b>
	<b>Grand Total .....</b>		<b>\$17,131.16</b>
(If more space is needed, insert additional sheets of same size)			

Item No.	Losses during administration	Amount
	None	\$ None
	<b>Total .....</b>	<b>\$ None</b>
(If more space is needed, insert additional sheets of same size)		

Item No.	Support of dependents	Amount
1	Widow's and children's award, appraised and approved by the Probate Court of Cook County, Illinois, October 24, 1924 .....	\$8,100.00
	<b>Total .....</b>	<b>\$8,100.00</b>
(If more space is needed, insert additional sheets of same size)		

47      Estate of W. Francis Jacobs, Deceased.

District of Illinois.

## Schedule K-1

## Deduction of Property Identified as Previously Taxed

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(See Schedule K-2 for Deduction of Charitable, Public, and  
Similar Gifts and Bequests)

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## Instructions

Note.—If the present decedent died prior to the passage of the Revenue Act of 1924, Articles 44 et seq. and 56 of Regulations No. 63, 1922 Edition, as amended by Article 109 of Regulations 68, 1924 Edition, control, and should be carefully read, and Form 706, as revised in November, 1923, should be used.

Enter in this schedule the amount deductible as representing property received from a donor within five years next preceding the present decedent's death, or from a prior decedent who died within five years of the death of the present decedent, or property acquired in exchange for property so received. If property received from more than one donor or prior decedent is listed in this schedule, that received from each should be set out separately.

Where the present decedent exchanged property which had been so received by him, and additional valuable consideration was given by him in such exchange, there may be deducted in this schedule such proportion only of the value, at the date of his death, of the property so acquired by the present decedent in such exchange as the value of the property received by him from such donor or prior decedent, and parted with by him in the exchange, bore to the entire consideration given. For example: An item of property received from a donor or a prior decedent, which had a value of \$10,000, was exchanged for property valued at \$15,000, and an additional \$5,000 consideration was given by the present decedent. The full value at date of the present decedent's death of the property acquired in exchange should be listed under Schedule G and two-thirds of such value deducted under

this schedule. The \$10,000 and \$15,000 values referred to in this example relate to the values as of the date of the exchange.

The amount deductible in this schedule may not exceed either (1) the value of the property received by the present decedent from a donor or prior decedent, as that value was fixed by the Commissioner in determining the gift tax of such donor or the estate tax of the estate of such prior decedent, or (2) the fair market value of such property at date of present decedent's death.

Where any property received by the present decedent from a donor or prior decedent, or property acquired in exchange therefor, is used in the discharge of funeral or administration expenses, debts of the decedent, mortgages, support of dependents, or any bequest or devise for a public or charitable purpose, or is lost during the settlement of the present decedent's estate as the result of fire, storm, shipwreck, other casualty, or by theft, and deduction on account thereof is taken in Schedules H, I, J, and K-2, the deduction in this schedule must be correspondingly reduced.

For further instructions, see Articles 41, 42, 43, and 53 of Regulations No. 68, 1924 Edition.

Item No.	Description of property	Amount previously taxed	Amount to be deducted
	None	\$ None	\$ None
Totals.....		\$.....	

(If more space is needed, insert additional sheets of same size)

Estate of W. Francis Jacobs, Deceased.

District of Illinois.

## Schedule K-2

Charitable, Public, and Similar Gifts and Bequests

## Instructions

Note.—If the decedent died between December 31, 1917, and the date of the passage of the Revenue Act of 1924, Articles 47 et seq., and 57, Regulations 63, 1922 Edition, control, and should be read carefully before preparing this schedule.

When a deduction is claimed under this schedule, there must be submitted with the return: (1) Two copies of the will, one of which should be certified, or two copies of the instrument of gift, one of which should be certified or verified. Where decedent was a nonresident, but one copy of the document, certified or verified, need be furnished; (2) an affidavit of the executor showing whether the decedent's will has been, or to the best of his knowledge, information and belief will be, contested.

For further instructions see Articles 44 to 47, inclusive, and 54, Regulations No. 68, 1924 Edition.

Item No.	Name and address of beneficiary	Character of institution	Amount
	None	None	\$ None
Total.....			\$ None

(If more space is needed, insert additional sheets of same size)



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Schedule L  
Recapitulation

Sched- ule	Gross estate	Value
A	Real estate .....	\$ 55,000.00
B	Stocks and bonds (grand total of all pages of this schedule) .....	26,753.39
C	Mortgages, notes, cash and insurance .....	25,979.94
D-1	Jointly owned property .....	45,000.00
D-2	Other miscellaneous property .....	1,540.00
E	Transfers .....	-----
F	Powers of appointment .....	-----
G	Property identified as previously taxed .....	-----
Total Gross Estate .....		\$154,273.33

Sched- ule	Deductions	Amount
H	Funeral expenses .....	\$ 771.10
	Administration expenses:	
	Executors' commissions .....	3,000.00
	Attorneys' fees .....	2,500.00
	Miscellaneous .....	450.00
I	Debts of decedent .....	93.00
J	Unpaid mortgages .....	17,131.16
	Net losses during administration .....	8,100.00
	Support of dependents .....	-----
K-1	Property identified as previously taxed .....	-----
K-2	Charitable, public, and similar gifts and bequests .....	-----
	Specific exemption (resident decedents only) .....	*50,000.00
Total Deductions .....		\$ 82,045.26
Total gross estate .....		\$154,273.33
Total deductions .....		82,045.26
Net Estate for Tax .....		\$ 72,228.07

For recapitulation of gross estate, deductions and net estate for nonresident decedents, see Schedule M.

## Schedule M

## Deductions—Estate of Nonresident

If the decedent was not a resident of the United States, Hawaii or Alaska, no deductions whatever are allowable unless the value of that part of his gross estate situated outside of the United States, Hawaii and Alaska be set forth. If it be desired to claim deductions, execute Schedules H-I-J-K and compute the deductions allowable as follows:

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1. Value of gross estate in United States (Schedules A-B-C-D-E-F-G) .....	\$ .....
2. Value of gross estate outside of the United States (attach itemized schedule showing values) .....	.....
3. Value of total gross estate wherever situated (1 plus 2) .....	.....
4. Gross deductions under Schedules H-I-J .....	.....
5. Net deductions under Schedules H-I-J (that proportion of 4 that 1 bears to 3, not exceeding 10% of 1) .....	.....
6. Schedule K (within the United States) .....	.....
7. Total deductions allowable (5 plus 6) .....	.....
8. Net estate taxable (1 minus 7) .....	.....

---

## Rates and Tax Due

			Date of Death.....					
			(1)*	(2)*	(3)*	(4)*	(5)*	
			Sept. 9, 1916, to Mar. 2, 1917, inclusive	Mar. 3, 1917, to Oct. 3, 1917, inclusive	Oct. 4, 1917, to Feb. 24, 1919, inclusive	Feb. 25, 1919, to June 2, 1924, inclusive	On and after June 3, 1924	
Net Estate			Rate	Rate	Rate	Rate	Rate	
Ex- ceeding---	Not ex- ceeding---	Amount of block	per cent	per cent	per cent	per cent	per cent	Amount of Tax
	\$50,000	\$50,000	1	1½	2	1	1	\$ 500.00
\$50,000	100,000	50,000	2	3	4	2	2	44.46
100,000	150,000	50,000	2	3	4	2	3	-----
150,000	250,000	100,000	3	4½	6	3	4	-----
250,000	450,000	200,000	4	6	8	4	6	-----
450,000	750,000	300,000	5	7½	10	6	9	-----
750,000	1,000,000	250,000	5	7½	10	8	12	-----
1,000,000	1,500,000	500,000	6	9	12	10	15	-----
1,500,000	2,000,000	500,000	6	9	12	12	18	-----
2,000,000	3,000,000	1,000,000	7	10½	14	14	21	-----
3,000,000	4,000,000	1,000,000	8	12	16	16	24	-----
4,000,000	5,000,000	1,000,000	9	13½	18	18	27	-----
5,000,000	8,000,000	3,000,000	10	15	20	20	30	-----
8,000,000	10,000,000	2,000,000	10	15	22	22	35	-----
10,000,000			10	15	25	25	40	-----

Total Estate Tax Shown by This Return.....\$ 544.46

† Credit for estate, inheritance, legacy, or succession tax (see Article 9, Regulations 68, 1924 Edition).....\$ 136.11

† Credit for gift tax (see Article 9, Regulations 68, 1924 Edition) .....

Total Credits .....\$ 136.11

Amount of estate tax payable after subtracting credits.....\$ 408.35

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## Jurat for Executors and Administrators

We-I, Elizabeth C. Jacobs, the undersigned executrix, do hereby solemnly swear—affirm that on the 24th day of July, 1924, the Probate court at Chicago, Cook County, Illinois,

\* If the decedent's death occurred on the date of the passage of any of the revenue acts imposing the estate tax, care must be exercised to use the rates of tax in force at the exact instant of death. (See Article 1, Regulations 68, 1924 Edition.)

† If the decedent died prior to 4.01 p. m., Washington, D. C., time, June 2, 1924, his estate is not entitled to any credit for estate, inheritance, legacy, succession, or gift taxes paid. (See Article 9, Regulations 68, 1924 edition.)

granted letters testamentary upon the estate of the foregoing-named decedent to the undersigned; that I have made diligent search for property of every kind left by the decedent; that I have carefully read the instructions printed on this form; that hereon is listed all of the property, tangible and intangible, forming the gross estate of the decedent so far as it has come to my knowledge and information; that I have carefully read all instructions under Schedule E of this form, and have made diligent and careful search for information as to whether the decedent, during his lifetime, made any transfers without a fair consideration in money or money's worth, and the answers given to the questions therein contained are true and complete to the best of my knowledge, information, and belief, and that I have no knowledge of any transfers made or trusts created by the decedent within two years of his death involving an amount or value equal to or exceeding \$1,000, other than bona fide sales for a fair consideration in money or money's worth, except as stated in Schedule E; that to the best of my knowledge, information, and belief, the value shown for each item of property listed in this return was the fair market value of the same at the day of decedent's death; and that the debts, expenses, and charges entered herein as deductions from the gross estate are correct and legally allowable.

#### Jurat for Beneficiaries, Custodians, and Trustees

I-We, \_\_\_\_\_, the undersigned beneficiary \_\_\_\_\_—Custodian—Trustee, do hereby solemnly swear—affirm that \_\_\_\_\_ have carefully read the instructions printed on this form; that hereon is listed all of the property, tangible or intangible, contained in the gross estate of the decedent which has come into \_\_\_\_\_ possession and control; that to the best of \_\_\_\_\_ knowledge, information, and belief, the value shown for each item of property listed hereon was the fair market value of the same at the time of the decedent's death; and that the debts, expenses, and charges entered hereon as deductions from the gross estate are correct and legally allowable.

ECJ (Name) Elizabeth C. Jacobs  
 (Address) 1732 Humboldt Blvd., Chicago.  
 (Name) \_\_\_\_\_  
 (Address) \_\_\_\_\_  
 (Name) \_\_\_\_\_  
 (Address) \_\_\_\_\_

Subscribed and sworn to before me, at Chicago, Cook County, Illinois, this 30th day of July, 1925.

Ada West Aiken,  
Notary Public.

(Seal)

Note.—If there is more than one executor or administrator, all must sign and swear to the return.

(The foregoing jurat may be sworn to before any person authorized to administer oaths.)

Name and address of attorney Fischel & Kahn,  
820—Number 111 West Monroe Street, Chicago, Illinois.

52 This Sheet Should Not Be Filled in by Taxpayer  
Collection District..... Bureau File No.....  
Date of death.....  
Name of decedent.....  
Residence at time of death.....

### Tax Record

#### Tax Shown by Return

Assessments				Payments		Adjustments
Amount	List	Page	Line	Date	Principal	Interest
.....	.....	3	8	8/1/25	408.35	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....

Total Deficiency Tax.....\$1,796.23  
Total Credits .....\$ 449.06  
Net Deficiency Tax.....\$1,347.17

Date of tentative findings 12/23, '26 By A. Warman  
Date of 60-day notice By.....  
or jeopardy letter.....

Assessments				Payments			
Amount	Interest	List	Page	Line	Date	Amount	Interest
of defi-	on defi-					of defi-	on defi-
ciency,	ciency from					ciency, due date	ciency from
exclu-	due date					exclu-	due date
sive of	of tax to					sive of	to date
interest	date of as-					of assess-	All
	essment					ment	other
							interest
							Adjust-
							ments
.....	.....	301	4	4-20-27	1,347.17	148.18	.....
1,347.17	169.41	June 27	1924	7	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....

(Stamp) Abated \$1,516.58 Refunded 7.48 Interest None MTR—1886  
Date 4-28-28 KSP

Dec 23 1926

MT-ET-6009-AW

District of 1st Illinois

Estate of W. Francis Jacobs

Date of death—June 17, 1924

Tentative deficiency \$1,796.23

Elizabeth C. Jacobs, Executrix,

Estate of W. Francis Jacobs,

1732 Humboldt Blvd.,

Chicago, Illinois.

Madam:

The estate tax return filed for the above-named estate has been examined and a deficiency in respect of the tax has been tentatively determined.

If you acquiesce in the deficiency as determined, or in any part thereof, you may sign the enclosed waiver of the restrictions on the assessment of all or so much of the undischarged portion of the deficiency as results from adjustments in which you acquiesce and forward it to the Commissioner of Internal Revenue, Washington, D. C.

If you desire to protest against any portion of the deficiency such protest must be filed with the Commissioner of Internal Revenue within thirty days from the date of this letter. The procedure incident to the filing of a protest is governed by the Regulations relating to Estate Tax, copies of which may be obtained upon application to the Collector or to this office.

This determination is tentative only and no petition herefrom lies to the Board of Tax Appeals. If upon further consideration at the expiration of the 30 day period for filing protest it appears that a deficiency in respect of the tax exists final determination thereof will be made and you will be notified by registered mail in accordance with the provisions of Section 308 (a) of the Revenue Act of 1926.

54 Examination of the return discloses the following:

Correct amount of tax.....	\$2,340.69
Tax shown on the return.....	\$ 544.46
Deficiency .....	\$1,796.23

The estate is entitled to an additional credit in the amount of 25 per centum of the deficiency as finally determined, on account of State inheritance tax paid. The undischarged

# Exhibit B.

51

portion of the deficiency herein determined is \$1,347.17. There will be assessed and collected, as a part of the deficiency, interest upon the undischarged portion thereof at the rate of six per centum per annum from one year after decedent's death to the date of assessment, or to the thirtieth day after the filing of a waiver of the restrictions on the assessment, whichever is the earlier.

The return has been verified as filed except as to the following changes:

Gross Estate	Returned	Tentatively Determined
<b>Real Estate</b>		
Item 1 .....	\$ 20,000.00	\$ 30,000.00
Item 2 .....	35,000.00	46,000.00
<b>Stocks and Bonds</b>		
Item 2 .....	160.00	462.83
Item 3 .....	320.00	1,851.30
Item 4 .....	5,000.00	7,000.00
Item 5 .....	20,475.00	21,210.00
Dividend .....	196.89	
Item 6 .....	100.00	125.00
Dividend .....	1.50	
Item 12 .....		7,625.00
Item 18 .....		32.90
Item 19 .....		103.00

55

Mortgages, Notes, Cash and Insurance	Returned	Tentatively Determined	Returned	Tentatively Determined
Interest on Item 1.....	\$ 1,009.60	\$ 722.52		
Item 13 .....	10,000.00	10,135.00		
Item 14 .....	2,391.93	2,891.93		
Received on Policy No. 2946416 Prudential Ins. Co. with post mortem dividend.....		5,061.13		
Other items .....	48,970.34	48,970.34		
Less insurance payable to specific beneficiaries .....	36,391.93	40,000.00		
Total.....			\$25,979.94	\$27,780.92
<b>Jointly Owned Property</b>				
Item 1 .....			45,000.00	60,937.50
Lots 11 and 12, Block 1, known as 1732 Humboldt Blvd., Chicago, Illinois .....				19,000.00
<b>Other Miscellaneous Property</b>				
Error in total.....				100.00
<b>Deductions</b>			Tentatively Determined	Returned
Attorney's fee .....			\$ 2,700.00	\$ 2,500.00
Miscellaneous administration expenses .....			150.00	450.00
Debts of decedent.....			1,452.57	93.00
Unpaid mortgages .....			16,060.47	17,131.16
To balance .....			69,806.24	



Attorney's fee is deducted in the amount which it appears will be allowed by the court and paid.

56 Miscellaneous administration expenses are deducted as claimed in the return with the exception of Item 2, which was not an enforceable claim against the decedent on the date of death.

Debts of decedent are deducted in the amounts which investigation discloses were obligations of the decedent on the date of death.

Unpaid mortgages are deducted in the amount found upon investigation to be correct.

Enclosed herewith is a summary of the returned and determined values of the gross estate, and also the claimed and allowed deductions.

This case has been audited in accordance with the retroactive provision of the Revenue Act of 1926 with respect to rates of tax.

Respectfully,

R. M. Estes,  
*Deputy Commissioner.*

VRL—Encl.

57

Estate of W. Francis Jacobs.

MT-ET-6009-AW-1st Illinois.

Date of death—June 17, 1924.

## Summary

	Returned (706)	Tentatively Determined on Review
<b>Gross Estate:</b>		
Real estate .....	\$ 55,000.00	\$ 76,000.00
Stocks and bonds .....	26,753.39	38,910.03
Mortgages, notes, cash, and insurance .....	25,979.94	27,780.92
Jointly owned property .....	45,000.00	79,937.50
Other miscellaneous property .....	1,640.00	1,640.00
Transfers .....	-----	-----
Powers of appointment .....	-----	-----
Property identified as previously taxed .....	-----	-----
<b>Total gross estate .....</b>	<b>154,273.33</b>	<b>224,268.45</b>
<b>Deductions:</b>		
Funeral expenses .....	771.10	771.10
Administration expenses—		
Executors' commissions .....	3,000.00	3,000.00
Attorneys' fees .....	2,500.00	2,700.00
Miscellaneous .....	450.00	150.00
Debts of decedent .....	93.00	1,452.57
Unpaid mortgages .....	17,131.16	16,060.47
Net losses during settlement .....	-----	-----
Support of dependents .....	8,100.00	8,100.00
Property identified as previously taxed .....	-----	-----
Charitable, public, and similar gifts and bequests ..	-----	-----
Specific exemption (resident decedents only) .....	50,000.00	50,000.00
<b>Total Deductions .....</b>	<b>82,045.26</b>	<b>82,234.14</b>
<b>Net estate for tax .....</b>	<b>72,228.07</b>	<b>142,034.31</b>
<b>Total tax .....</b>	<b>544.46</b>	<b>2,340.69</b>
<b>Tentative Deficiency Tax .....</b>	<b>-----</b>	<b>1,796.23</b>
<b>Credits for estate, inheritance, legacy, or succession tax .....</b>	<b>136.11</b>	<b>585.17</b>
<b>Credit for gift tax .....</b>	<b>-----</b>	<b>-----</b>

Treasury Department  
Internal Revenue Bureau  
Estate Tax Division

Form 7821A—Revised March 1925.

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# 38-69



58

## Treasury Department

Washington

(Seal)

Office of  
Commissioner of Internal Revenue

List

Page 304, Line 7

\$1347.17 Ass'd

169.41 June 1927.

6-17-25 to 7-22-27.

Assess. Ctf. Tax \$1347.17

Assess. Int. 6% from 6-17-25 do

By MMS Date 6-24-27.

MT-ET-C1 6009-REB

District of 1st Illinois

Estate of E. Francis Jacobs

Date of death June 17, 1924.

Elizabeth C. Jacobs, Executrix,

Estate of E. Francis Jacobs,

1732 Humboldt Blvd.,

Chicago, Illinois.

Madam:

The Bureau has no record of the receipt of a protest on behalf of the above-named estate against the tentative findings disclosed in its letter addressed to the executor under date of Dec. 23, 1926, in view of which fact the tentative findings set forth in said letter, a copy of which is attached hereto and made a part hereof, are hereby made final and the deficiency in the estate tax is determined to be \$1,793.23.

In accordance with the provisions of Title III of the Revenue Act of 1926, you are allowed 60 days from the date of the mailing of this letter (not counting Sunday as the sixtieth day) within which to file a petition with the United States Board of Tax Appeals for a redetermination of the deficiency. Any such petition must be addressed to the United States Board of Tax Appeals, Earle Building, Washington, D. C., and must be mailed in time to reach the said Board within the 60 day period prescribed.

Where a taxpayer has been given an opportunity to file a

petition with the United States Board of Tax Appeals and has not done so within the 60 days prescribed, and an assessment has been made, or where a taxpayer has filed a petition and an assessment in accordance with the decision, which has become final, has been made, the unpaid amount of such assessment must be paid upon notice and demand from the Collector of Internal Revenue. No claim for abatement can be entertained.

If you acquiesce in this determination and do not desire to file a petition with the United States Board of Tax Appeals, you are requested to execute the enclosed Form 890, waiving (1) your right to file a petition with the United States Board of Tax Appeals and (2) the restrictions on the assessment and collection of such deficiency, and forward it to the Commissioner of Internal Revenue, Washington, D. C., for the attention of the Estate Tax Division, Miscellaneous Tax Unit. In the event that you acquiesce in only a part of the determination, the enclosed form of waiver should be executed with respect to the amount of the deficiency to which you agree.

Respectfully,

(Signed) C. E. Nash,  
*Acting Commissioner.*

Enclosures:

Statement,

Waiver—Form 890

## "EXHIBIT D."

Execute Separate Form for Each Tax Period  
Claim FC

Treasury Department  
Internal Revenue Service  
Form 843—Jan., 1922  
Comptroller General U. S.  
January 18, 1922

- ☐ Abatement of Tax Assessed  
☐ Credit Against Outstanding Assessments  
☒ Refund of Taxes Illegally Collected  
☐ Refund of Amounts Paid for Stamps Used in Error or Excess

## Important

File with Collector of Internal Revenue where assessment was made. Not acceptable unless completely filled in.

Notice to Collector  
Collector must indicate in block above the kind of claim, except in Income Tax cases.

Date received by  
Administrative Unit

(Stamp Illegible)

Stamp here

State of Illinois, }  
County Cook. } ss.

Type or Print

Elizabeth C. Jacobs, individually  
and as Executrix of the estate of  
W. Francis Jacobs  
(Name of taxpayer or purchaser of  
stamps.)

1732 Humboldt Boulevard, Chi-  
cago, Illinois  
(Residence—give street and number as  
well as city or town and State.)

None  
(Business address.)

## Collector's Notation

District

Account number

Date received

Stamp here

Collector of Internal Revenue

This deponent, being duly sworn according to law, deposes and says that this statement is made on behalf of the taxpayer named, and that the facts given below with reference to said statement are true and complete:

1. Business in which engaged  
None

2. Character of assessment or tax Federal estate tax  
(State for or upon what the tax was assessed or the stamps affixed.)

3. Amount of assessment or stamps purchased..\$1,903.70

Period	Year
From: .....	19.....
To: .....	19.....

4. Reduction of Tax Liability requested (Income and Profits Tax) .....\$ \_\_\_\_\_
5. Amount to be abated .....\$ \_\_\_\_\_
6. Amount to be refunded (or such greater amount as is legally refundable) .....\$1,800.00
7. Dates of payment (see Collector's receipts or indorsements of canceled checks) Aug. 7, 1925, April 20, 1927.  
(If statement covers income tax liability, items 8-11, inclusive, must be answered.)
8. District in which return (if any) was filed.....
9. District in which unpaid assessment appears.....
10. Amount of overpayment claimed as credit....\$ \_\_\_\_\_
11. Unpaid assessment against which credit is asked; period from\_\_\_\_\_ to\_\_\_\_\_ \$ \_\_\_\_\_

Deponent verily believes that this application should be allowed for the following reasons:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Attach additional sheets if necessary.)

Signed: Elizabeth C. Jacobs.

Sworn to and subscribed before me this 19 day of Sept., 1927.

(Seal)

L. H. Durfee,  
Notary Public.  
(Title.)

(This affidavit may be sworn to before a Deputy Collector of Internal Revenue or Revenue Agent without charge.)



I certify that an examination of the records of the Bureau of Internal Revenue shows the following facts as to the assessment and payment of the tax:

Name of Taxpayer	Character of assessment and period covered	List Year	Month	Page	Line	Amount	Date paid	District in which paid
Estate of W. Francis Jacobs	Est. 1925 Aug. 3 8	1927 Apr. 301 4				\$ 408.35	8/1/25	1st Ill.
	Office Claim—9/14/27	June 304 7				1,495.35	4/20/27	"
	Refund Claim—4/22/27—					1,516.58	x x	x x
						207.58	Rej.-MT:ET-	1011

(In right-hand margin) Schedule No. ....

E. M. B.

Claim Clerk.

Mabel G. Reinecke,

Collector of Internal Revenue.

M. Emery,

Assessment Clerk, Commissioner's Office.

I certify that the records of my office show the following facts as to the purchase of stamps:

To Whom Sold or Issued	Kind	Number	Denomination	Date of sale or issue	Amount	Serial Number	Period commencing—
					\$.....		

(In left-hand margin) Claim No. ....

(In right-hand margin) Claim No. ....

Collector.....District.....

Schedule Number.....District.....

Allowed or Rejected Number.....

(Nature of tax.)

Claimant .....  
Address .....

Examined and submitted for action....., 19.....

Claim examined by—	Committee on Claims
Amount claimed...\$.....	
Claim approved by—	Amount allowed...\$.....
Chief of Division.	Amount rejected...\$.....

(In left-hand margin) Schedule No. ....

(Stamp) Office of Internal Revenue Received Oct 3 1927 Estate Tax

61 (1) The value of the premises at 2400 W. North Avenue, Chicago, Illinois, shown as Item No. 2 of Schedule A, Form 706, heretofore filed was not in excess of \$35,000 on June 17, 1924, the date of the death of said decedent, and the increase in the valuation thereof to \$46,000 made by the Commissioner of Internal Revenue was incorrect and improper.

(2) The inclusion by the Commissioner of Internal Revenue in the gross estate of said decedent of the property at 2749-59 Monticella Avenue, Chicago, Illinois, which was jointly owned by the decedent and the deponent, and the valuation thereof in the sum of \$60,937.50 were incorrect and improper. The deponent made a substantial contribution out of her own money toward the purchase price of said premises.

(3) The inclusion by the Commissioner of Internal Revenue in the gross estate of said decedent of the property at 1732 Humboldt Boulevard, Chicago, Illinois, which was jointly owned by the decedent and the deponent, and the valuation thereof in the sum of \$19,000 were incorrect and improper. The title to this property in joint tenancy was acquired by the decedent and the deponent by deed dated July 29, 1909, and delivered on or about August 5, 1909, and recorded in the Recorder's Office of Cook County on August 6, 1909.

(4) From the gross estate of said decedent there should be deducted the further sum of \$850, being the amount of the claim of Harry D. Knight for services rendered to the decedent in his lifetime as an attorney, which claim has been allowed in the Probate Court and paid out of the estate of said decedent since the filing of said Form 706. This appears as Item No. 4 of Schedule I, Form 706.

McCulloch & McCulloch  
Lawyers  
585 Illinois Merchants Bank Building  
231 South LaSalle St.  
Chicago

(Stamps): Received Sept. 20, 1927. Received Oct. 3, 1927,  
Office of Internal Revenue. Estate Tax.

Frank H. McCulloch  
Catharine Waugh McCulloch  
Oscar A. Ross  
Jacob E. Replogle  
Hugh W. McCulloch  
Grover C. McLaren  
Roy J. Chowen  
William D. Doggett  
Hathorn W. McCulloch  
Clarence E. Tripp  
Gaylord A. Toft  
Harry S. Flynn

September 19, 1927.

Collector of Internal Revenue,  
Chicago, Illinois.

Dear Madam:

We forward you herewith Form 843, Claim for Refund—  
Elizabeth C. Jacobs. If you have any question with refer-  
ence to this matter, please advise the writer, as we now repre-  
sent Mrs. Jacobs in this matter.

Sincerely yours,

McCulloch & McCulloch,  
By Hugh W. McCulloch.

HWM:S  
Encl.

63

## EXHIBIT E.

State of Illinois }  
County of Cook. } ss.

The undersigned, Elizabeth C. Jacobs, being first duly sworn, deposes and says that the facts given below are true and complete:

1. That she makes this affidavit in support of the claim heretofore filed by her individually and as Executrix of the Estate of W. Francis Jacobs, MT-ET-C1-6009-CTK District of First Illinois Estate of W. Francis Jacobs Date of death: June 17, 1924, pursuant to the suggestion of the Commissioner of Internal Revenue.

2. That the premises referred to in Paragraph 2 of said claim for refund filed by the undersigned and known as 2749-59 Monticello Avenue, Chicago, Illinois, were acquired by Warranty Deed dated November 23, 1917, from Bergitte M. Brandt and Albert E. Brandt, her husband, a true and photostatic copy of the original of said deed being attached hereto, marked "Exhibit 1".

3. That the premises referred to in Paragraph 3 of said claim for refund filed by the undersigned and known as 1732 Humboldt Boulevard, Chicago, Illinois, were acquired by Warranty Deed dated July 29, 1909, from Lena De St.

George, a true and photostatic copy of the original of  
64 said deed being attached hereto, marked "Exhibit 2".

4. That the inclusion of said jointly owned property in the gross estate of W. Francis Jacobs, subject to Federal Estate Tax, is improper and not warranted by law.

Elizabeth C. Jacobs.

Subscribed and sworn to before me this 2 day of April,  
A. D., 1928.

Hugh W. McCulloch,  
Notary Public.

## "EXHIBIT F."

TREASURY DEPARTMENT  
Office of  
Commissioner of Internal Revenue  
Washington

CWM

Apr 28 1928

(Stamp) Received Jun 1 1928 Estate Tax  
(Cut)

Miscellaneous Tax Unit

MT-ET-CTK

Elizabeth C. Jacobs, Executrix  
u/w of W. Francis Jacobs,  
1732 Humboldt Boulevard,  
Chicago, Illinois.

Certificate of  
Overassessment  
Number: 6009—1st Illinois  
Allowed: \$1,524.06  
Schedule No. MTR-1886

Madam:

An audit of the estate tax return, Form 706, of the estate of W. Francis Jacobs, who died June 17, 1924 and a consideration of all the claims (if any) filed by you indicates that the tax assessed against the estate was in excess of the amount due as per the following statement:

Original assessment (August 1925, P. 3, L. 8)	\$ 408.35
Additional " (April 1927, P. 301, L. 4)	1,495.35
Additional " (June 1927, P. 304, L. 7)	1,516.58
<b>Total tax and interest assessed</b>	<b>\$3,420.28</b>
Less correct tax liability	\$2,323.67
Credit on account of State inheritance tax paid	580.92
<b>Net tax payable</b>	<b>\$1,742.75</b>
Interest on portion of tax shown by the return not discharged by credit	6.06
Interest on portion of deficiency not discharged by credit	147.41
<b>Overassessment</b>	<b>\$1,524.06</b>

(See attached statement)

The amount of the overassessment will be abated or refunded as indicated below. (The estate will be relieved from

the payment of any amount abated; and any amount found to be refundable is covered by a Treasury check transmitted herewith.)

Included in the accompanying check is interest in the amount stated below, allowed on the amount found to be refundable.

Date claim filed September 20, 1927.

Date collector's claim filed—September 19, 1927.

District 1 Ill.

Interest: none

Record of Audit and Review

Date

Return audited: CTK 4-10-28

Reviewed (Unit) ZZ 4-14-28

Review Section

Approved: L H Mueller

4-/21/28

Head of Division

Approved: B B Millin

Approved: R. M. Estes

Committee

Form 7924-C

Form approved by Comptroller  
General U. S. April 5, 1927

Bureau Record Copy

(In left-hand margin) Form 7805B sgd. by Commr.

\_\_\_\_\_, 192 : Abated, \$1,516.58 Form 7920 No. MTR

1886, sgd. by Commr. 4/28, 1928 : Refunded, \$7.48

66

	Est.	1925	Aug.	3	8	408 35	8-1-25	408 35	Pd.
Additional	Misc.	1927	Apr.	301	4	1347 17	4-20-27	1347 17	Pd.
Interest	Misc.	1927	Apr.	301	4	148 18	4-20-27	148 18	Pd.
Additional	Misc.	1927	June	304	7	1347 17	4-28-28	1347 17	Ab.
Interest	Misc.	1927	June	304	7	169 41	4-28-28	169 41	Ab.
						3420 28		3420 28	

Mabel G. Reinecke,

Collector of Internal Revenue.

By Jno. P. Muldoon,

Deputy Collector.

(Stamp) Received Apr 27 1928 Estate Tax Div.

67 MT-ET-C1-6009-CTK

District of 1st Illinois

Estate of W. Francis Jacobs.

In the claim the contention is made that certain items of real estate were overvalued. No evidence has been submitted in support of this contention although an opportunity to sub-

mit evidence was given. The values fixed by the Bureau are based upon the evidence obtained from real estate experts.

The second contention is that the decedent's wife contributed to the purchase price of Item 1 of Jointly Owned Property. Her contribution to the extent of one sixteenth was conceded. The total value of the property was found to be \$65,000.00, and in view of the wife's contribution only \$60,937.50 was included in the gross estate.

The third contention presented is that nothing should be included in the statutory gross estate on account of property held under a joint tenancy created on July 29, 1909. In subdivision (h) of Section 302 of the Revenue Act of 1924 it is provided that "Subdivisions (b), (c), (d), (e), (f), and (g) of this section shall apply to the transfers, trusts, estates, interests, rights, powers, and relinquishment of powers, as severally enumerated and described therein, whether made, created, arising, existing, exercised, or relinquished before or after the enactment of this Act."

The final contention is that additional deduction should be made under the caption "Debts of decedent" in the amount of \$850.00. The net estate previously valued at \$142,034.31 is now valued at \$141,184.31, the tax on the transfer of which is \$2,325.67.

The certificate of overassessment reflects the adjustment shown above and also the correction of a duplicate assessment of deficiency.

This Indenture Witnesseth, That the Grantor Lena De St. George, a widow, of the City of Brooklyn in the County of Kings and State of New York for and in consideration of the sum of Seven Thousand Dollars, in hand paid, Conveys and Warrants to W. Francis Jacobs and Eliazbeth C. Jacobs, husband and wife, as joint tenants and not as tenants in common of the City of Chicago, County of Cook and State of Illinois the following described Real Estate, to-wit:

Lots Eleven (11) and Twelve (12) in Block One (1) in Johnston and Cox's Subdivision of the South West Quarter (S.W.¼) of the South West Quarter (S.W.¼) of Section Thirty-six (36) in Township Forty (40) North, Range Thirteen (13), East of the Third Principal Meridian situated in the City of Chicago in the County of Cook in the State of Illinois hereby releasing and waiving all rights under and by



virtue of the Homestead Exemption Laws of the State of Illinois.

Subject to all taxes from and after July 9th, 1909.

Subject also to all unpaid special taxes or assessments levied for improvements not yet made.

Witness my hand and seal this 29th day of July A. D. 1909.

(signed) Mrs. Lena De St. George (Seal)

State of Illinois }  
County of Cook } ss.

I, Henry B. M. Berentson, a notary public in and for the said County, in the State aforesaid, Do Hereby Certify that Lena De St. George, a widow, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed, sealed and delivered the said instrument as her free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal this 5th day of August A. D. 1909.

(signed) Henry B. M. Berentson,

(Notarial Seal)

Notary Public.

My commission expires Feb. 11, 1911.

Box 1019

Warranty Deed

Individual to Individual

Lena De St. George

To

W. Francis Jacobs

Elizabeth C. Jacobs

State of Illinois }  
County of Cook } ss.

No. 4417756

Filed for Record 1909 Aug 6 PM 2 08 and recorded in book 10756 of records page 592.

Abel Davis,  
Recorder.

**EXHIBIT H.**

This Indenture, made this 23rd day of November, 1917, between Bergitte M. Brandt and Albert E. Brandt, her husband, of the City of Chicago in the County of Cook and State of Illinois parties of the first part, and W. Francis Jacobs and Elizabeth C. Jacobs, his wife, of the City of Chicago in the County of Cook and State of Illinois, parties of second part.

Witnesseth, that the parties of the first part, for and in consideration of the sum of Ten Dollars and all other good and valuable consideration, in hand paid, convey and warrant to the said parties of the second part, not as tenants in common, but as joint tenants, the following described Real Estate to-wit:

Lot Ten (10) and the west 22 feet of Lot Nine (9), in Block One (1) in Cratty and Kirkeby's Subdivision of Lot One (1) in Kimbell's Subdivision of the East half (E.  $\frac{1}{2}$ ) of the South West quarter (S.W.  $\frac{1}{4}$ ) and the West half (W.  $\frac{1}{2}$ ) of the South East quarter (S.E.  $\frac{1}{4}$ ) of Section Twenty-six (26), Township Forty (40) North, Range Thirteen (13) East of the Third Principal Meridian except Twenty-five (25) acres in the North East corner.

Subject to a Trust Deed dated December 1, 1915, made by George H. J. Haas and Louise P. Haas, his wife, to Chicago Title and Trust Company to secure their indebtedness of \$26000.00 secured by their 59 bonds of even date therewith payable to the order of bearer or registered owner thereof without grace as follows: Nos. 1 and 2 for \$500 each December 1, 1917; No. 3 for \$500.00 June 1, 1918; Nos. 4 and 5 for \$500 each December 1, 1918; No. 6 June 1, 1919 for \$500.00; Nos. 7 and 8 for \$500.00 each December 1, 1919; No. 9 for \$500.00 June 1, 1920; Nos. 10 to 24 for \$100.00 each, Nos. 25 to 54 for \$500.00 each and Nos. 55 to 59 for \$1000.00 each December 1, 1920, with interest until maturity at 6 per cent per annum; Also, subject to a Trust Deed dated March 4, 1915 made by George H. J. Haas and Louise P. Haas, his wife to Will J. Bell, securing their note bearing even date thereof No. 346 for \$4000.00 payable to the order of themselves as follows: \$50.00 on June 15, 1916; and on the 15th of each month thereafter for 29 months succeeding and a payment of \$1500.00 on December 15, 1918 and a final payment of \$1000.00 on December 15, 1918, provided, however, that if the premises securing this note are sold by the makers thereof, then this final payment of \$1000.00 shall become immediately

due and payable without notice to the maker thereof, said indebtedness bears interest at 6% per annum upon the whole amount of said principal sum remaining from time to time unpaid, said interest payable monthly.

situated in the City of Chicago County of Cook in the State of Illinois, hereby releasing and waiving all rights under and by virtue of the Homestead Exemption laws of the State of Illinois.

The Premises Hereinabove Mentioned are expressly hereby declared to pass, not in tenancy in common, but in joint tenancy.

Subject to all taxes and assessments levied after the year 1916.

In Witness Whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Bergitte M. Brandt (Seal)

Albert E. Brandt (Seal)

State of Illinois ss.  
Cook County

I, F. S. Kunkel, a Notary Public in and for the said County, in the State aforesaid, Do Hereby Certify that Bergitte M. Brandt and Albert E. Brandt, her husband, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and Notarial seal this 23rd day of November A. D. 1917.

(Notarial Seal) (signed) F. S. Kunkel,  
Notary Public.

Envelope  
Warranty Deed  
Joint Tenancy  
Bergitte M. Brandt and  
Albert E. Brandt, her husband  
To  
W. Francis Jacobs and  
Elizabeth C. Jacobs, his wife  
F. S. Kunkel & Co.  
2640 Milwaukee Ave.  
Albany 6010  
Envelope

*Defendant's Requested Findings.*

State of Illinois }  
Cook County } ss.

No. 6236940

Filed for Record 1917 Nov 26 AM 11 31 and recorded in  
book 14579 of records page 590

Joseph F. Haas,  
Recorder.

led May 24,  
1934.

70 And on, to wit, the 24th day of May, A. D. 1934 came the Defendant by its attorneys and filed in the Clerk's office of said Court a certain Request for Findings of Fact and Conclusions of Law in words and figures following, to wit:

71 IN THE DISTRICT COURT OF THE UNITED STATES.  
\* \* (Caption—39407) \* \*

### DEFENDANT'S REQUEST FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW.

Comes now the defendant in the above entitled cause and respectfully requests the Court to make and enter the following specific findings of fact, and to declare and enter the following conclusions of law, to-wit:

#### Findings of Fact.

Defendant requests that the Court adopt the stipulation of facts filed by the parties as the Court's findings of facts in this case.

Upon the foregoing findings of fact, which are hereby made a part of the judgment herein, the Court finds and enters the following:

#### Conclusions of Law.

##### I.

72 The Revenue Act of 1924 requires the inclusion of the full value of the property on Monticello Avenue owned by decedent and his wife as joint tenants in the gross estate of decedent for Federal estate tax purposes.

II.

The Revenue Act of 1924, in so far as it imposes a Federal estate tax on the full value of the property on Monticella Avenue held by the decedent and his wife as joint tenants, is a constitutional and valid exercise of the powers granted Congress by the Constitution of the United States.

III.

The Revenue Act of 1924 requires the inclusion of the full value of the property on Humboldt Boulevard owned by decedent and his wife as joint tenants in the gross estate of decedent for Federal estate tax purposes.

IV.

The Revenue Act of 1924, in so far as it imposes a Federal estate tax on the full value of the property on Humboldt Boulevard held by the decedent and his wife as joint tenants, is a constitutional and valid exercise of the powers granted Congress by the Constitution of the United States.

V.

The taxes sought to be recovered in this action were lawfully assessed by the Commissioner of Internal Revenue and legally collected from the plaintiff.

VI.

The evidence in this case is insufficient in law to warrant a judgment against the defendant.

VII.

The defendant on the pleadings and the evidence in this case is entitled to judgment dismissing plaintiff's petition at plaintiff's costs.

73 In the event that the Court fails or refuses to make, adopt, or enter the foregoing findings of fact and conclusions of law, or any thereof, defendant respectfully ex-

cepts and prays that it be allowed an exception or exceptions to such action or ruling of the Court, and the defendant further excepts and prays that it be allowed an exception to any ruling and action of the Court in making and entering any other findings of fact or conclusions of law, or either thereof.

Respectfully submitted,

Michael L. Igoe,

May, 1937.

*United States Attorney.*

June 10,  
7.

74 And afterwards, to wit, on the 10th day of June, A. D. 1937, being one of the days of the regular June term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward, District Judge appears the following entry, to wit: Memorandum:

75 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—39407) \* \*

### MEMORANDUM.

June 10, 1937.

WOODWARD, *District Judge:*

The Court will find the issues for the plaintiff, both as to the Monticello Avenue property and Humboldt Boulevard property.

The court will find the facts as set forth in the stipulation of the parties filed in the cause.

In either case the tax may be measured only by the value of decedent's interest which passed at death and not by the value of the whole interest, which would include the value of the interest of the surviving joint tenant.

The Act of 1924 cannot be given retro-active operation.

The Act under which this suit is brought provides that

"It shall be the duty of the court to cause a written opinion to be filed in the cause, setting forth the specific findings by the court of the facts therein and the conclusions of the court upon all questions of law involved in the case, and to render judgment thereon." 28 U. S. C. A. 764."

Plaintiff's attorneys will tender for signature formal findings of fact and conclusions of law, together with a form of judgment in conformity with the conclusions herein stated and in conformity with the statute above quoted.

76 And afterwards, to wit, on the 17th day of June, A. D. 1937, being one of the days of the regular June term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward, District Judge, appears the following entry, to wit:

Filed June 17  
1937.

77 IN THE DISTRICT COURT OF THE UNITED STATES.  
• • (Caption—39407) • •

**FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

This is an action to recover the amount of a tax paid by the plaintiff, which she alleges was the result of an illegal estate tax assessment measured by the properties held by the decedent and his spouse, as joint tenants.

The tax, insofar as disputed here was assessed under Section 302 (e) and (h) of the Revenue Act of 1924, Chapter 234, 43 Stats, 253, 304 (U. S. C., Title 26, Section 1094).

The Court makes the following findings of fact and conclusions of law.

**Findings of Fact.**

77 The Court finds the fact as set forth in the Stipulation of the parties, which is as follows:

78 1. On June 17, 1924, W. Francis Jacobs died a citizen of the United States and resident of Chicago, Illinois, leaving a last Will and Testament thereafter duly admitted to probate in the Probate Court of Cook County, and Elizabeth C. Jacobs was appointed executrix thereof, and letters testamentary were issued to her and that said letters testamentary were reissued to her on May 3, 1928, and are now in full force and effect.

2. That Mabel G. Reinecke, formerly Collector of Internal Revenue for the First District of the State of Illinois, to whom the payment of the Federal estate tax due from the estate of W. Francis Jacobs was made, is no longer in office and is no longer acting as such Collector of Internal Revenue.

3. On August 1, 1925, Elizabeth C. Jacobs as executor of the Estate of W. Francis Jacobs, filed with the Collector of Internal Revenue for the First District of Illinois a Federal estate tax return on Form 706, which disclosed a gross estate of \$154,273.33, claimed deductions in the amount of \$82,045.26,



resulting in a net estate of \$72,228.07, and a gross Federal estate tax of \$544.46. Credit on account of State inheritance tax payments was claimed in the amount of \$136.11, resulting in a net Federal estate tax of \$408.35, which amount was paid on August 1, 1925. A copy of said return is hereto attached, marked "Exhibit A" and by reference is made a part hereof.

4. Thereafter, the Commissioner of Internal Revenue made an audit and review of said estate and tentatively determined that there was a deficiency in respect of the tax in the amount of \$1,796.23. An additional credit on account of state inheritance tax payments was allowed in the amount of \$449.06, making a total credit of \$585.17, and resulting in an undischarged deficiency of \$1,347.17. The result of this audit and review by the Commissioner was fully set forth in letter dated December 23, 1926, which was mailed to the executrix of this estate. A copy of said letter of December 23, 1926 is hereto attached, marked "Exhibit B" and by reference is made a part hereof.

5. No protest was filed on behalf of the estate against the tentative findings made by the Commissioner as set forth in letter of December 23, 1926. Therefore the Commissioner of Internal Revenue made a final determination that there was an undischarged deficiency in the estate tax in the amount of \$1,347.17, and under date of March 22, 1927 mailed a letter to the executrix of this estate, advising her that the tentative findings set forth in said letter of December 23, 1926, were made final and that the undischARGE deficiency in the estate tax was determined to be \$1,347.17. A copy of said letter of March 22, 1927, is hereto attached, marked "Exhibit C" and by reference is made a part hereof.

6. On April 20, 1927, the executrix paid this deficiency tax of \$1,347.17, plus interest in the amount of \$148.18, making a total payment of \$1,495.35.

7. On September 20, 1927, a claim for refund was filed by the executrix, a copy of which is hereto attached, marked "Exhibit D" and by reference is made a part hereof. Thereafter, on April 2, 1928, the executrix forwarded to the Commissioner of Internal Revenue an affidavit in support of her claim for refund, a copy of said affidavit is attached hereto as "Exhibit E", and by reference made a part hereof.

The claim for refund was allowed by the Commissioner in the amount of \$7.48, which amount was refunded to the executrix on May 28, 1928. The claim was rejected as to the balance. A copy of the certificate of overassessment showing

the action taken by the Commissioner on this claim for refund is attached hereto, marked "Exhibit F", and by reference made a part hereof.

8. The Federal estate tax return filed by the executrix (Exhibit A) disclosed and included for tax under Schedule D (jointly owned property) as a part of the decedent's statutory gross estate the following item of property:

2749-59 Monticello Avenue, Chicago, Illinois, Encumbrance—\$17,000. Improved with three-story brick 18 flat building. Elizabeth C. Jacobs, widow of decedent, contributed \$3,000.00 toward purchase of this property. Fair market value of property at date of death—\$48,000.00; Amount to be included in gross estate—\$45,000.00.

This property was acquired by the decedent and his wife as joint tenants on November 23, 1917, and continued to be held by him and his wife as such joint tenants until the date of his death. A copy of the deed conveying this property to the decedent and his wife as joint tenants is attached hereto, marked "Exhibit G", and by reference is made a part hereof. Decedent's wife, Elizabeth C. Jacobs, contributed \$3,000 or one-sixteenth of the price paid toward the purchase of this property and the decedent contributed the other fifteen-sixteenths. Except for the one-sixteenth contribution afore-  
80 said, no part of this property, and no part of the funds which were used to purchase it originally belonged to the said Elizabeth C. Jacobs.

9. In the audit of this estate tax return, the Commissioner of Internal Revenue retained as a part of this decedent's gross estate the above-described property which was owned by the decedent and his wife as joint tenants, and not as tenants in common. The Commissioner, however, increased the value of this property to \$65,000.00, and included as a part of the gross estate of this decedent the sum of \$60,937.50, this being 15/16th of the value of the property and representing the proportion contributed toward the purchase price by this decedent, the other 1/16th having been contributed by the wife of the decedent.

10. In the audit of this estate tax return, the Commissioner of Internal Revenue included as a part of the decedent's statutory gross estate the following property:

Lots 11 and 12, Block 1, known as 1732 Humboldt Boulevard, Chicago, Illinois.

The Commissioner determined that the value of this property was \$19,000.00 and that it was taxable at its full value.

This property was acquired by the decedent and his wife, as joint tenants on July 29, 1909, and decedent and his wife continued to hold such property in joint tenancy until the date of decedent's death. A copy of the deed conveying this property to the decedent and his wife, as joint tenants, is attached hereto and marked "Exhibit H", and by reference is made a part hereof. No part of this property and no part of the funds which were used to purchase it originally belonged to Elizabeth C. Jacobs, the widow of the decedent, but to the contrary the funds which were used to purchase it were the individual property of the decedent.

11. At the time of the decedent's death, there was a mortgage on the Monticello Avenue Property described in paragraph 8, in the amount of \$16,060.47. In the final audit of this estate the Commissioner of Internal Revenue allowed this amount as a deduction from the gross estate of the decedent for estate tax purposes. It is stipulated and agreed that if said Monticello Avenue property should be excluded from the decedent's statutory gross estate then and in that event the deductions allowable from the adjusted gross estate should be reduced from the amount originally allowed by the Commissioner of Internal Revenue by the amount of \$16,060.47, the mortgage deduction so allowed, and any recovery by the plaintiff herein, should be reduced accordingly. It is further stipulated and agreed that if any portion of said Monticello Avenue property be excluded from the decedent's statutory gross estate then and in that event a like portion of the said \$16,060.47 deduction should be disallowed, and should reduce any recovery by the plaintiff proportionately.

12. That no part of said tax paid by said Elizabeth C. Jacobs, Executrix under the last Will and Testament of W. Francis Jacobs, deceased, has been refunded or repaid by said Mabel G. Reinecke, as Collector of Internal Revenue, or by any other person whomsoever, except the sum of \$7.48 above referred to.

13. That service of a copy of the petition filed in the above entitled cause was made as required by law upon the District Attorney of the United States for the Northern District of Illinois, Eastern Division on March 25, 1931, and upon the Attorney General of the United States at Washington, D. C.

## Conclusions of Law.

1. The estate tax on the estate of the deceased joint tenant may not be measured by the inclusion of the value of the interest of the surviving joint tenant.

2. The estate tax on the estate of the deceased joint tenant may validly be measured by one-half (the decedent's half) of the property held by the two joint tenants.

3. Insofar as the Humboldt Boulevard property, which was acquired before 1916, is concerned, the Revenue Act of 1924 cannot be given a retroactive operation so as to tax more than one-half the said property to the decedent's estate.

82 4. The pleadings and the facts as stipulated by the parties are sufficient in law to warrant a judgment against the defendant insofar as there was included in the measure of the tax on the decedent's estate more than one-half the value of the property held by him and a survivor in joint tenancy.

5. Plaintiff is entitled to a judgment for the amount of the overassessment, namely \$502.55, plus interest from April 21, 1927 at six per cent (6%), amounting to \$306.24, making a total of \$808.79.

Enter:

Charles E. Woodward,  
*Judge.*

Dated: June 17, 1937.

83 And afterwards, to wit, on the 17th day of June, A. D. 1937 being one of the days of the regular June term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward District Judge appears the following entry, to wit:

Entered June  
17, 1937.

84 IN THE DISTRICT COURT OF THE UNITED STATES.  
• • (Caption—39407) • •

## JUDGMENT.

This cause coming on to be heard and the Court having considered the evidence and arguments of counsel and being fully advised in the premises and having made findings of fact and conclusions of law in said cause,

It Is Ordered And Adjudged that Judgment be, and it is

hereby entered in favor of the plaintiff and against the defendant in the sum of Eight Hundred Eight Dollars Seventy-Nine Cents (\$808.79) and costs.

Enter:

Charles E. Woodward

*Judge*

Dated: June 17 1937.

red June  
1937.

85 And afterwards, to wit, on the 17th day of June, A. D. 1937 being one of the days of the regular June term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward District Judge appears the following entry, to wit:

86 IN THE DISTRICT COURT OF THE UNITED STATES.  
• • (Caption—39407) • •

### ORDER.

Judgment having this day been entered for the plaintiff in the above entitled cause, It Is Ordered that the record of said cause show the exceptions of the defendant

(a) To the Court's failure to make the findings requested by the defendant;

(b) To the denial of defendant's motion for Judgment;

(c) To the entry of Judgment for the plaintiff.

It Is Further Ordered that the time for filing the Bill of Exceptions in the above cause be extended sixty (60) days beyond the thirty (30) days allowed by the statute, namely, until September 15, 1937.

Enter:

Charles E. Woodward

*Judge*

Dated: June 17, 1937.

87 And on, to wit, the 13th day of September, A. D. 1937 came the Defendant by its attorneys and filed in the Clerk's office of said Court a certain Notice in words and figures following, to wit:

*Petition for Appeal.*

77

88      IN THE DISTRICT COURT OF THE UNITED STATES.  
            • • (Caption—39407) • •

NOTICE OF APPEAL.

To: McCulloch, McCulloch & McLaren,  
857, #231 South La Salle Street,  
Chicago, Illinois.  
Attorneys for Plaintiff.

The defendant, the United States of America, hereby serves its notice that it will appeal from the decision entered in the above entitled cause on June 17, 1937.

M. L. Igoe,  
Michael L. Igoe,  
*United States Attorney.*

Received a copy of the above and foregoing Notice of Appeal this 13th day of September, A. D. 1937.

McCulloch, McCulloch & McLaren  
*Attorneys for Plaintiff.*

89      And on, to wit, the 14th day of September, A. D. 1937 came the Defendant by its attorneys and filed in the Clerk's office of said Court a certain Petition in words and figures following, to wit:

Filed Sept. 14  
1937.

90      IN THE DISTRICT COURT OF THE UNITED STATES.  
            • • (Caption—39407) • •

PETITION FOR APPEAL.

To The Honorable Judges Of The District Court Of The United States For The Northern District Of Illinois:

Now comes the United States of America, defendant in the above entitled action, by its attorney, Michael L. Igoe, United States Attorney for the Northern District of Illinois, as petitioner, and respectfully shows that on the 17th day of June, 1937, the Court found the issues in this cause against your petitioner and in favor of the plaintiff, Elizabeth C. Jacobs, Executrix under the Last Will and Testament of W. Francis



Jacobs, deceased, and entered a final judgment on the said date against your petitioner and in favor of the plaintiff.

Your petitioner feeling itself aggrieved by the said judgment, pursuant to the authority and direction of the Attorney General of the United States, herewith petitions the Court for an order allowing it to prosecute an appeal in the United States Circuit Court of Appeals for the Seventh Circuit under the laws of the United States in such cases made and provided.

91 Wherefore, the premises considered, your petitioner prays that an appeal in this behalf be allowed to the United States Circuit Court of Appeals for the Seventh Circuit, City of Chicago, State of Illinois, in said Circuit, for the correction of the errors complained of and herewith assigned, and that an order be entered allowing the said appeal without bond of the defendant, it appearing that the above entitled cause is one in which the United States is the real party in interest and that this petition for appeal is filed pursuant to the authority and direction of the Attorney General of the United States.

Dated this 14th day of September, A. D. 1937.

M. L. Igoe (B)

Michael L. Igoe,

*United States Attorney.*

1 Sept. 14, 37. 94 And on, to wit, the 14th day of September, A. D. 1937, came the Defendant by its attorneys and filed in the Clerk's office of said Court a certain Assignment of Errors in words and figures following, to wit:

95 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—39407) \* \*

### ASSIGNMENT OF ERRORS.

Comes now the United States of America, the above named defendant, by Michael L. Igoe, United States Attorney for the Northern District of Illinois, and David L. Bazelon, Assistant United States Attorney for said District, and respectfully submits the following assignments of error upon which it relies in support of its appeal from the judgment entered on June 17, 1937, by this Court in this cause, and under which



assignments of error said defendant, as appellant, seeks reversal of the decision and judgment of this Court.

I.

The Court erred in concluding as a matter of law and adopting conclusion of law No. 1 made by the Court as follows:

The estate tax on the estate of the deceased joint tenant may not be measured by the inclusion of the value of the interest of the surviving joint tenant.

in that the facts are undisputed and the Revenue Act of 1924 constitutionally requires that an estate tax be paid on the 96 entire value of property held by a decedent and another in joint tenancy.

II.

The Court erred in concluding as a matter of law and adopting conclusion of law No. 3 made by the Court as follows:

In so far as the Humboldt Boulevard property, which was acquired before 1916, is concerned, the Revenue Act of 1924 cannot be given a retroactive operation so as to tax more than one-half the said property to the decedent's estate.

in that the Revenue Act of 1924 specifically requires that a Federal estate tax be paid on the entire value of property held in joint tenancy, where the tenancy was created prior to the enactment of said revenue act, and in so requiring the Revenue Act of 1924 is entirely constitutional and valid.

III.

The Court erred in concluding as a matter of law and adopting conclusion of law No. 4 made by the Court as follows:

The pleadings and the facts as stipulated by the parties are sufficient in law to warrant a judgment against the defendant in so far as there was included in the measure of the tax on the decedent's estate more than one-half the value of the property held by him and a survivor in joint tenancy.

in that the record contains no sufficient or substantial evidence to sustain a judgment in favor of the plaintiff and against the defendant.

## IV.

The Court erred in concluding as a matter of law and adopting conclusion of law No. 5 made by the Court as follows:

Plaintiff is entitled to a judgment for the amount of the overassessment, namely, \$502.55, plus interest from April 21, 1927 at six per cent, amounting to \$306.24, making a total of \$808.79.

in that under the pleadings and evidence in this case the defendant was entitled to a judgment dismissing the bill of complaint.

97

## V.

The Court erred in refusing to make defendant's requested conclusion of law No. 1 and to conclude:

The Revenue Act of 1924 requires the inclusion of the full value of the property on Monticello Avenue owned by decedent and his wife as joint tenants in the gross estate of decedent for Federal estate tax purposes.

## VI.

The Court erred in refusing to make defendant's requested conclusion of law No. 2 and to conclude:

The Revenue Act of 1924, in so far as it imposes a Federal estate tax on the full value of the property on Monticello Avenue held by the decedent and his wife as joint tenants, is a constitutional and valid exercise of the powers granted Congress by the Constitution of the United States.

## VII.

The Court erred in refusing to make defendant's requested conclusion of law No. 3 and to conclude:

The Revenue Act of 1924 requires the inclusion of the full value of the property on Humboldt Boulevard owned by decedent and his wife as joint tenants in the gross estate of decedent for Federal estate tax purposes.

in that the facts are undisputed and show every element to be present necessary to the imposition of a tax on the full value of property held by the decedent and his wife as joint tenants under Section 302 of the Revenue Act of 1924.

VIII.

The Court erred in refusing to make defendant's requested conclusion of law No. 4 and to conclude:

The Revenue Act of 1924, in so far as it imposes a Federal estate tax on the full value of the property on Humboldt Boulevard held by the decedent and his wife as joint tenants, is a constitutional and valid exercise of the powers granted Congress by the Constitution of the United States.

98

IX.

The Court erred in refusing to make defendant's requested conclusion of law No. 5 and to conclude:

The taxes sought to be recovered in this action were lawfully assessed by the Commissioner of Internal Revenue and legally collected from the plaintiff.

in that the facts are undisputed, and under these facts and the law applicable thereto, the taxes were legally due from the plaintiff.

X.

The Court erred in holding that property held by husband and wife in a joint tenancy created prior to the enactment of the Revenue Act of 1924 is not taxable at its full value under the Federal estate tax levied by the Revenue Act of 1924.

XI.

The Court erred in holding that under the Revenue Act of 1924 only one-half of the value of property owned by the decedent and his wife as joint tenants, where the joint tenancy had been created prior to the enactment of the Revenue Act of 1924, was subject to the Federal estate tax.

XII.

The Court erred in granting a judgment to the plaintiff and against the defendant.

Wherefore, defendant and appellant prays that the judgment made and entered by the District Court herein be re-

versed and that the cause be remanded to the District Court with instructions to enter judgment for the defendant, dismissing plaintiff's complaint, and that defendant be given such other and further relief as to the Court may seem just and proper.

99 Dated this 14th day of September, 1937.

M. L. Igoe,

Michael L. Igoe,

United States Attorney.

David L. Bazelon,

David L. Bazelon,

Assistant United States Attorney.

Entered Sept.  
14, 1937.

92 And afterwards, to wit, on the 14th day of September, A. D. 1937 being one of the days of the regular September term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes District Judge appears the following entry, to wit:

93 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—39407) \* \*

### ORDER ALLOWING APPEAL.

This cause coming on to be heard on the petition of the United States of America, the said defendant appearing by its attorney, Michael L. Igoe, United States Attorney for the Northern District of Illinois, for an order allowing it to prosecute an appeal to the United States Circuit Court of Appeals for the Seventh Circuit, and it appearing that notice of this proceeding has been given to the plaintiff.

It Is Ordered in open court that the prayer of the said petitioner be and the same hereby is allowed, and the appeal prayed for by the said petitioner is hereby granted and allowed without bond of the defendant, it appearing that the above entitled cause is one in which the United States is the real party in interest, and this appeal is being taken by the direction and authority of the Attorney General of the United States of America.

Dated this 14 day of September, A. D. 1937.

Enter:

Barnes,  
United States District Judge.

100 And on, to wit, the 27th day of September, A. D. 1937  
came the Defendant by its attorneys and filed in the  
Clerk's office of said Court a certain Praeipie for Record in  
words and figures following, to wit:

Filed Sept.  
1937.

101 IN THE DISTRICT COURT OF THE UNITED STATES.  
\* \* (Caption—39407) \* \*

**PRAEIPIE FOR RECORD.**

To: Henry W. Freeman, Esq., Clerk of the District Court of  
the United States, Northern District of Illinois:

You will please prepare a transcript of the record in the  
above-entitled cause to be filed in the office of the Clerk of  
the United States Circuit Court of Appeals for the Seventh  
Circuit under the appeal heretofore allowed in said cause,  
and include in said transcript the following:

1. Placita.
2. Petition filed May 27, 1931.
3. Plea and Notice of Special Matter filed May 23, 1931.
4. Order granting petitioner leave to file instant  
amended petition, entered January 15, 1934.
5. Amendment to petition filed January 15, 1934.
6. Stipulation of Facts filed April 14, 1937.
7. Defendant's request for Findings of Fact and Conclu-  
sions of Law, filed May 24, 1937.
8. Memorandum of Judge Woodward filed June 10, 1937.
9. Findings of Fact and Conclusions of Law entered June  
17, 1937.
- 101½ 10. Judgment entered for plaintiff on June 17, 1937.
11. Order that record show certain exceptions, en-  
tered June 17, 1937.
12. Order extending time for filing bill of exceptions, en-  
tered June 17, 1937.
13. Notice of Appeal.
14. Petition for Appeal.
15. Order allowing appeal.
16. Assignment of Errors.
17. Citation.
18. This Praeipie.
19. Clerk's Certificate.

M. L. Igoe (B)  
Michael L. Igoe,  
*United States Attorney.*

Service of a copy of the above praecipe acknowledged this 22 day of September A. D. 1937.

McCulloch, McCulloch & McLaren.

102 Northern District of Illinois } ss:  
Eastern Division

I, Henry W. Freeman, Clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the proceedings had of record made in accordance with Praecipe filed in this Court in the cause entitled

Elizabeth C. Jacobs, Executrix under the Last Will and Testa- ment of W. Francis Jacobs, de- ceased,	} No. 39407.
<i>vs.</i>	
The United States of America	

as the same appear from the original records and files thereof now remaining in my custody and control.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at my office, in the City of Chicago, in said District, this \_\_\_\_\_ day of October, A. D. 1937.

Henry W. Freeman

(Seal)

Clerk.

103 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—39407) \* \*

#### CITATION.

The President Of The United States, To Elizabeth C. Jacobs, Executrix of the Last Will and Testament of W. Francis Jacobs, Deceased, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Seventh Circuit to be holden at Chicago within thirty days from the date hereof, pursuant to an appeal filed in the Clerk's office

in the District Court of the United States for the Northern District of Illinois, Eastern Division, wherein you are plaintiff appellee, to show cause, if any there by, why the judgment entered against the said defendant appellant as in the said petition for appeal mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable John P. Barnes, Judge of the District Court of the United States, this 14th day of September, A. D. 1937.

John P. Barnes,  
*United States District Judge.*

Served a copy of the above Citation this 14th day of September, A. D. 1937.

McCulloch, McCulloch & McLaren  
*Attorneys for Plaintiff.*

104    Endorsed: In the District Court of the United States  
      • • (Caption—39407) • • Citation Filed Sep 14 1937  
Henry W. Freeman, Clerk    Michael L. Igoe, U. S. Atty.  
(DLB)





UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

I, Frederick G. Campbell, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing printed pages, numbered from 1 to 85, inclusive, contain a true copy of the printed record, printed under my supervision and filed on the eighteenth day of November, 1937, upon which the following entitled cause was heard and determined: Elizabeth C. Jacobs, Executrix of the Last Will and Testament of W. Francis Jacobs, deceased, Plaintiff-Appellee vs. The United States of America, Defendant-Appellant, No. 6418, October Term, 1937, as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 15th day of September A. D. 1938.

[SEAL]

FREDERICK G. CAMPBELL,

*Clerk of the United States Circuit Court  
of Appeals for the Seventh Circuit.*

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, begun and held in the United States Court Room in the City of Chicago, in said Seventh Circuit, on the fifth day of October, 1937, of the October Term, in the year of our Lord one thousand nine hundred and thirty-seven, and of our Independence the one hundred and sixty-second.

6418

ELIZABETH C. JACOBS, EXECUTRIX OF THE LAST WILL AND TESTAMENT  
OF W. FRANCIS JACOBS, DECEASED, PLAINTIFF-APPELLEE

vs.

THE UNITED STATES OF AMERICA, DEFENDANT-APPELLANT

Appeal from the District Court of the United States for the Northern  
District of Illinois, Eastern Division

And, to wit: On the twenty-fifth day of May 1938, the following further proceedings were had and entered of record, to wit:

Wednesday, May 25, 1938

Court met pursuant to adjournment

Before Hon. WILLIAM M. SPARKS, Circuit Judge; Hon. J. EARL MAJOR, Circuit Judge; Hon. WALTER C. LINDLEY, District Judge.

6418

ELIZABETH C. JACOBS, EXECUTRIX OF THE LAST WILL AND TESTAMENT  
OF E. FRANCIS JACOBS, DECEASED, PLAINTIFF-APPELLEE

*vs.*

THE UNITED STATES OF AMERICA, DEFENDANT-APPELLANT

Appeal from the District Court of the United States for the Northern  
District of Illinois, Eastern Division

Now this day come the parties by their counsel and this cause comes on to be heard on the transcript of the record and briefs of counsel and on oral argument by Mr. Ellis N. Slack, counsel for Appellant, and by Mr. Lewis C. Murtaugh, counsel for Appellee, and the Court having heard the same, takes this matter under advisement.

And afterwards, to wit: On the twenty-eighth day of June, 1938, there was filed in the office of the Clerk of this Court, the Opinion of the Court, which said Opinion is in the words and figures following, to wit:

In the United States Circuit Court of Appeals for the Seventh  
Circuit

No. 6418. October Term, 1937, April Session, 1938

ELIZABETH C. JACOBS, EXECUTRIX OF THE LAST WILL AND TESTAMENT  
OF W. FRANCIS JACOBS, DECEASED, PLAINTIFF-APPELLEE

*vs.*

THE UNITED STATES OF AMERICA, DEFENDANT-APPELLANT

Appeal from the District Court of the United States for the  
Northern District of Illinois, Eastern Division

June 28, 1938

Before SPARKS and MAJOR, Circuit Judges, and LINDLEY, District Judge.

LINDLEY, District Judge. On July 29, 1909, prior to the enactment of any legislation including joint tenancies in the gross estate upon which an estate tax is to be computed and payable, Jacobs purchased, with his own funds, certain real estate of the value of \$19,000. Con-

veyance was made to him and his wife as joint tenants. Upon his death, on June 17, 1924, the commissioner included in his gross estate the entire value of the property. The executors paid the tax under protest and sued to recover; the District Court allowed a recovery of 50 per cent thereof. The sole question presented by the appeal is whether the commissioner rightfully included within the estate of Jacobs, the entire value of this property.

The first provision for inclusion of such transfers in the computation of an estate tax was enacted in 1916, some seven years subsequent to the acquisition of the property. It provided that there should be included in the value of the gross estate of the decedent, at the time of his death, all interest in real estate held as joint tenants by the decedent and any other person or as tenants by the entirety by the decedent and his spouse, except such part thereof as might be shown to have belonged originally to such other person and not to have been received or acquired by the latter from the decedent for less than a fair consideration. This provision has been carried forward in the applicable act. (Revenue Act of 1924, c. 234, 43 Stat. 253.) Prior to 1924 there was no express provision that the provision should apply to transfers made before enactment of the legislation, but by Section 302 (h) of the act of 1924, Congress provided that such property should be included, irrespective of whether the transfer occurred prior or subsequent to the enactment.

In *Tyler v. United States*, 281 U. S. 497, the Supreme Court in dealing with an estate by the entirety, created out of funds contributed solely by the decedent, subsequent to the first legislation including such transfers, held the full value of the estate taxable. The court pointed out that in such estates, each of the decedent and the spouse has the right to possess and use the whole property but that neither is able to dispose of any part thereof without the consent of the other; that, according to an "amiable fiction" of the common law (abiding in Pennsylvania, and Maryland), husband and wife are but one person and their estate by the entirety constitutes a unit; and, therefore, that the title of the survivor becomes effective as against the other only at and because of the latter's death, saying "the death of one of the parties to the tenancy became the generating source of important and definite accessions to the property rights of the other." In *Gwinn v. Commissioner*, 287 U. S. 224, the court followed the *Tyler* case, approving the inclusion of one-half of an estate in joint tenancy under the law of California, under which the rights of the survivor of two joint tenants are not irrevocably fixed at the creation of the tenancy. But the only amount included in the assessment there before the court was the one-half of the joint estate. On February 7, 1938, the Supreme Court decided *Helvering v. Bowers*, 303 U. S. —, and *Foster v. Commissioner*, 303, U. S. —. The *Bowers* case had to do with an attempt to include the full value of an estate held by the entirety created prior to 1916 and the *Foster* case with a similar attempt as to the full

value of an estate by joint tenancy created after 1916. In each instance the entire value of the property was held properly included.

An estate of entirety differs from that of joint tenants. In Illinois, where the property involved was located, a joint tenant has a right to sell his interest. *Lawler v. Byrne*, 252 Ill. 194; *Szymczak v. Szymczak*, 306 Ill. 541. He may mortgage it or subject it to a lien. *Hardin v. Wolf*, 318 Ill. 48; *Liese v. Hentze*, 326 Ill. 633. He may sue for partition. *Barr v. Barr*, 273 Ill. 621. Illinois does not know estates by the entirety. In such estates the title of each grantee is to the whole and no act of the one can destroy or affect the right of survivorship in the other. When the one dies, he merely ceases to divide the enjoyment of the estate of which he was completely seized by virtue of the creative instrument. On the other hand the title of each joint tenant is to a share of the estate only. If one dies, the survivor becomes seized of the whole. But the creative instrument gives him title to only his share and the share which he receives as a result of the death of his co-tenant is a new one. Co-tenants possess the incidents of enjoyment such as sale, mortgage, lease, and partition, *U. S. v. Robertson*, 183 Fed. 711 (C. C. A. 7), *c. d.* 220 U. S. 616. This distinction must be kept in mind, for it affects vitally the question before us.

In *Knox v. McElligott*, 258 U. S. 546, a husband and wife in 1912 acquired certain property as joint tenants purchased solely with the funds of the husband. He died in 1917, and a tax was assessed upon the entire value of the property owned by him and his wife as joint tenants. There as here the taxpayer paid the tax under protest and sued to recover, the District Court rendering judgment as prayed, allowing the tax upon half of the property and not upon the other half. The Circuit Court of Appeals reversed the judgment holding the entire estate taxable, but the Supreme Court reversed the latter court, saying: "The Circuit Court of Appeals stating the contention of the executors said, that 'they claimed that the assessment was void as to the half of the joint property which vested in Cornelia (Mrs. Kissam) before the passage of the Act of September 8, 1916, as amended, and also that the act itself was unconstitutional as a direct tax upon property without apportionment among the several states as required by Article I, Sec. 9, subdivision 4, of the Constitution.'

"But this contention was the alternative of the contention which plaintiffs in error also made, that the Act of September 8, 1916, as amended, was not intended to have retrospective operation. And this was the decision of the District Court, the court saying, 'It is true that section 201 provides that the tax is imposed upon the transfer of the net estate of 'every decedent dying after the passage of this Act'; but the assumption must be that this relates to estates thereafter created and not to then existing vested property.' And the court added 'At the time the statute was passed Cornelia Kissam's interest belonged to her.' The court further observed, 'From the structure of the Act, to say that the measure of the tax is the extent

of the interest of both joint tenants is, in effect, to say that a tax will be laid on the interest of Cornelia in respect of which Jonas had in his lifetime no longer either title or control.' The court rejected that conclusion and denied to the acts of Congress retroactive operation. To this the Circuit Court of Appeals was opposed and reversed the judgment based upon it.

"It will be observed, therefore, that this case involves the same question as that decided in *Shwab v. Doyle*, ante, 529, and on the authority of that case the judgment of the Circuit Court of Appeals is reversed and the cause remanded for further proceedings in accordance with this opinion."

Subsequent thereto the *Tyler* case, dealing with estates by the entirety, was decided, but still later in *Cahn, Executor, v. United States*, 297 U. S. 691, the Supreme Court adhered to *Knox v. McElligott*, supra, and reversed the Court of Claims, whose decision is published in 10 F. Supp. 577. The lower court held that the entire value of joint tenancy property should be included. The Supreme Court reversed, upon the authority of the *Knox* case. That case seems parallel with the present case as to the facts and must control our decision here.

We conclude that Mrs. Jacobs received title to her interest in 1902; that when the statute was enacted, a half-interest already belonged to her and that Congress could not by legislation thereafter include in her husband's estate something that had passed to her as her absolute property years before the legislation was enacted. *Helvering v. Bowers*, in our opinion, does not militate against this conclusion, in view of the *Knox* and *Cahn* cases.

Nor in our opinion can the provision of the statute making it applicable to estates created prior to the enactment of the legislation affect the situation. This section cannot be applied to a completed transfer of title existing before the tax provision was enacted. *Helvering v. Helmholz*, 296 U. S. 93; *Nichols v. Coolidge*, 274 U. S. 531; *Hassett v. Welch*, — U. S. —. Thus in *Industrial Trust Company v. United States*, 296 U. S. 220, the court held that the statute was not applicable to the proceeds of insurance policies irrevocably assigned prior to 1916. See also *Lewellyn v. Frick*, 268 U. S. 238, to the same effect.

The property interest of Mrs. Jacobs was created prior to the enactment of the legislation, prior to the time when she and her husband had knowledge that Congress expected to attempt to reach such transfers. At such a time her estate was created, and under it she obtained a vested property right. The other half interest, which she did not receive until the death of her husband, was property taxable, but to say that Congress by legislation subsequent to the creation of a vested estate, may tax the transfer retroactively is opposed to all the reasoning in the cases cited.

Nor does the decision of the Supreme Court in the case of *Commissioner v. Foster* persuade us to a different conclusion. The joint



tenancy there under consideration and held taxable was one created in 1931, long subsequent to the enactment of the legislation. There was no question of the retroactive effect of the act. *Gwinn v. Commissioner*, 287 U. S. 224, cited in the Foerster opinion, sustained the inclusion only of the half of an estate in joint tenancy represented by the decedent's interest, created before 1916. This half interest the court said passed at his death, and, therefore, was properly taxable. There was there no attempt to tax the interest which had passed to his wife prior to the enactment of the legislation. The same is true of the joint tenancy estate under consideration in *Commissioner v. Emery*, 62 F. (2) 591 (C. C. A. 7). There the joint tenancy was created subsequently to the passage of the act.

In consideration, therefore, of our conclusion that the interest of Mrs. Jacobs vested in her prior to the enactment of the legislation, the District Court was right in its judgment excluding that half interest from taxation. The only part properly taxable was the remainder of the estate which passed to her upon the death of her husband.

The taxpayer admits that under *Foster v. Commissioner* the question involved as to the joint tenancy created in 1917 was erroneously decided.

The judgment of the District Court is reversed in so far as it applies to the property known as the Monticello Avenue property and as to the Humboldt Boulevard property, it is affirmed.

And on the same day, to-wit: On the twenty-eighth day of June 1938 the following further proceedings were had and entered of record, to-wit:

Tuesday, June 28, 1938

Court met pursuant to adjournment

Before Hon. WILLIAM M. SPARKS, Circuit Judge; Hon. J. EARL MAJOR, Circuit Judge; Hon. WALTER C. LINDLEY, District Judge.

6418

ELIZABETH C. JACOBS, EXECUTRIX OF THE LAST WILL AND TESTAMENT  
OF W. FRANCIS JACOBS, DECEASED, PLAINTIFF-APPELLEE

vs.

THE UNITED STATES OF AMERICA, DEFENDANT-APPELLANT

Appeal from the District Court of the United States for the  
Northern District of Illinois, Eastern Division

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Northern District of Illinois, Eastern Division, and was argued by counsel.

On consideration whereof: It is now here ordered and adjudged by this Court that the Judgment of the said District Court in this



cause be, and the same is hereby reversed in so far as it applies to the property known as the Monticello Avenue Property, and that said Judgment be, and the same is hereby, affirmed as to the Humboldt Boulevard Property.

It is further ordered that this cause be, and the same is hereby, remanded to the said District Court.

And afterwards, to-wit: On the twenty-fifth day of July 1938 the Mandate of this Court issued to the District Court of the United States for the Northern District of Illinois, Eastern Division.

United States Circuit Court of Appeals for the Seventh Circuit

I, Frederick G. Campbell, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing typewritten pages, numbered from 1 to 11, inclusive, contain a true copy of the following proceedings had and papers filed, hearing May 25, 1938, opinion filed June 28, 1938, judgment entered June 28, 1938, and reference to the issuance of the Mandate, in the following entitled cause: Elizabeth C. Jacobs, Executrix of the Last Will and Testament of W. Francis Jacobs, deceased, Plaintiff-Appellee, vs. the United States of America, Defendant-Appellant, No. 6418, October Term, 1937, as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In testimony whereof, I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 15th day of September A. D. 1938.

[SEAL]

FREDERICK G. CAMPBELL,

*Clerk of the United States Circuit Court of Appeals  
for the Seventh Circuit.*

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## Supreme Court of the United States

*Order allowing certiorari*

Filed November 7, 1938

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted. And is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

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